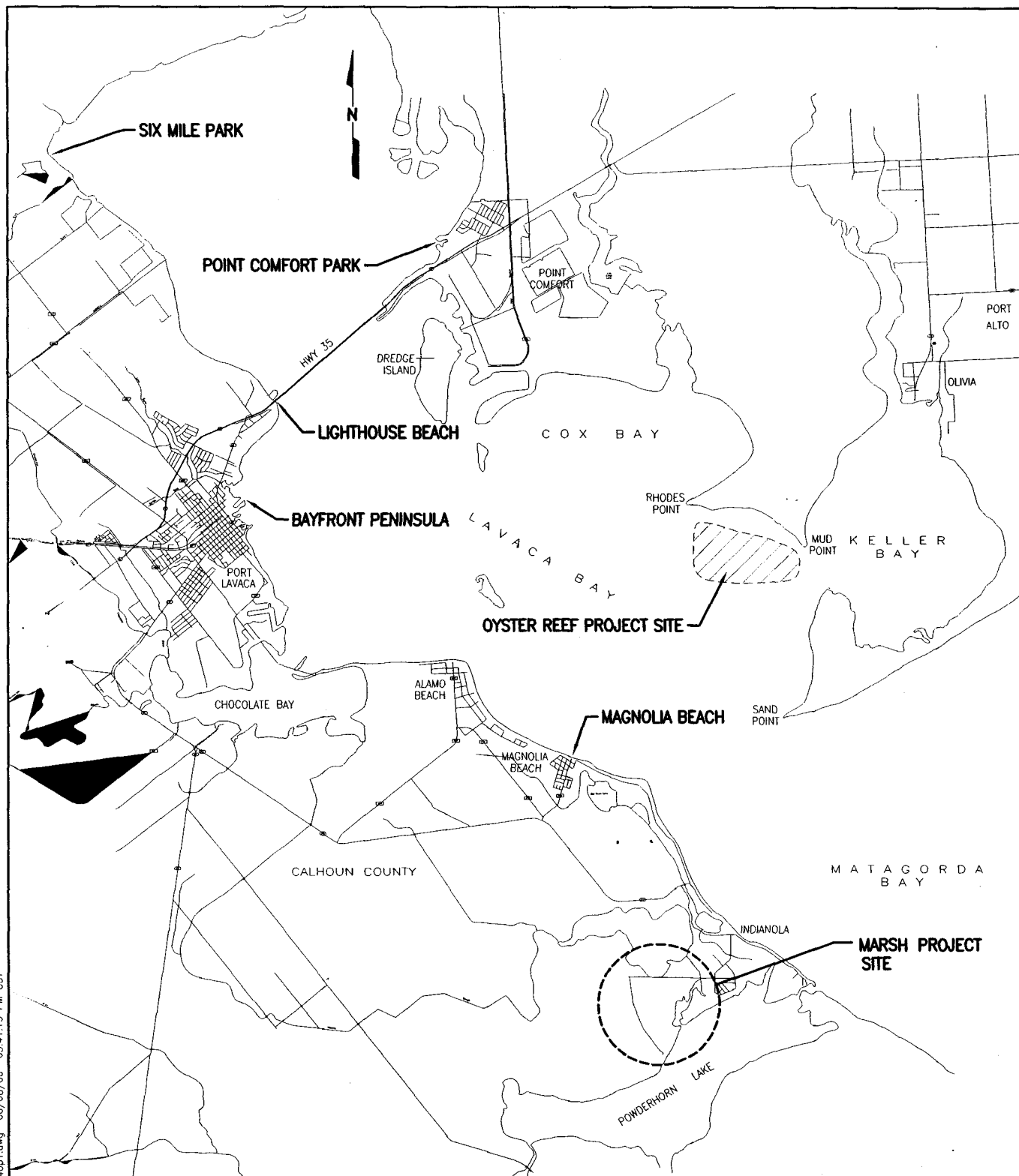


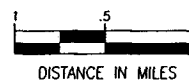
Exhibit 1

Vicinity/Location Map for Project Sites



VICINITY/LOCATION MAP FOR PROJECT SITES

SCALE: 1" = 2 MILES



SHINER MOSELEY AND ASSOCIATES, INC.
ENGINEERS & CONSULTANTS

555 North Carancahua Street, Suite 1650 Corpus Christi, Texas 78478

DESCRIPTION/ACTIVITIES: RESTORATION OF MARSH AND OYSTER REEF HABITAT, AND ENHANCEMENT OF RECREATIONAL FISHING OPPORTUNITIES

JOB NO.: 90040

DATE: 11/00

REV. DATE: 06/30/04

SHEET 1

Exhibit 2

Description of the Whitmire Property and Identification of Encumbrances

**Exhibit 2 to Consent Decree for Natural Resource Damages
Description of Whitmire Property and Identification of Encumbrances**

DESCRIPTION OF WHITMIRE PROPERTY

STATE OF TEXAS §

COUNTY OF CALHOUN §

DESCRIPTION of a tract or parcel of land containing 729.29 acres situated in and a part of the Benito Morales Survey, A-28, and the Juan Cano Survey, A-5, Calhoun County, Texas. The hereinafter described tract of 729.29 acres being in and a part of those certain Tracts, Blocks Adjoining Streets, Alleys, Lots and Parcels of land situated in Calhoun County, Texas as follows:

1. Being all or part of Block Seventy-eight (78), Blocks Eighty-two (82) through Eighty-five (85) inclusive; Block Eighty-nine (89), Blocks Ninety-six (96) through One hundred twelve (112) inclusive, Block One hundred fourteen (114), Block One hundred eighteen (118), Block One hundred twenty-seven (127), Block One hundred forty-one (141), Block One hundred eighty-six (186), Block One hundred ninety-two (192), Block One hundred ninety-three (193), Blocks One hundred ninety-five (195) through Two hundred two (202), inclusive, Blocks Two hundred six (206) through Two hundred nine (209) inclusive, Block Two hundred thirteen (213), Block Two hundred fifty-three (253), Block Two hundred seventy-two (272), Block Two hundred seventy-four (274), Block Two hundred seventy-eight (278), Block Two hundred seventy-nine (279), Blocks Two hundred eighty-nine (289) through Two hundred ninety-eight (298) inclusive; according to map or plat of Bayside Beach Unit No. 1, recorded in Volume Z, Pages 27 & 28 of the Map and Plat Records of Calhoun County, Texas.
2. Being in and a part of that certain Tract or Parcel containing 142 acres, more or less, known as Interlocking Yacht Basin recorded in Volume 81, Page 221, Deed Records of Calhoun County, Texas.
3. Being all or part of that certain Tract or Parcel containing 166.26 acres, more or less, recorded in Volume 108, Page 171, Deed Records of Calhoun County, Texas and shown on Plat or Map of J.W. Doremus Acreage in Bayside Beach, recorded in Volume Z, Page 200 of the Map and Plat Records of Calhoun County, Texas.
4. Being a part of Block Twenty-five (25), Block Twenty-nine (29), Block Forty-nine (49), Block Eighty-nine (89), Block Ninety-one (91), Block Ninety-three (93), Block One hundred one (101), Block One hundred three (103), according to Map or Plat of Bayside Beach Unit No. 2; recorded in Volume Z, Page 40 of the Map and Plat Records of Calhoun County, Texas.
5. A Quitclaim Deed recorded in Volume 179, Page 116, Deed Records of Calhoun County, Texas.

6. Being in and a part of that certain 242 acres, more or less of Bayside Beach Unit No. 2, recorded in Volume 23, Pages 458-463, Deed Records of Calhoun County, Texas. This 729.29 acres is more fully described by metes and bounds as follows:

BEGINNING at corner No. 1, a found 5" x 5" concrete monument with a 2 inch iron pipe marking the North corner of the Nature Conservancy of Texas, Inc. 2940.486 acre tract as described in a Warranty Deed recorded in Volume 68, Pages 630-636 of the Calhoun County Official Records. Said found monument also being the East corner of a 100 acre tract of land as described in a Special Warranty Deed recorded in Volume 394, Pages 146-148 of the Calhoun County Deed Records and the South corner of the Bayside Beach Highlands Subdivision as per the recorded plat in Volume Z, Page 42 of the Calhoun County Plat Records;

THENCE, from corner No. 1, along the Southeast line of Bayside Beach Highlands Subdivision,

N 51° 58' 52" E, 381.96 feet

to corner No. 2, a 5/8 inch iron rod with a plastic cap stamped "Cor. No. 2" set at the point of intersection with the curved South line of State Highway No. 316. Said set 5/8 inch iron rod also being the West corner of a 21.85 acre, more or less, Tract as described in a Right-of-Way Deed recorded in Volume 37, Pages 117-119 of the Calhoun County Deed Records;

THENCE, from corner No. 2 along the chord bearing of a curve to the Left, having a central angle of 29° 47' 45"; a radius of 2059.86 feet; an arc length of 1071.20 feet;

S 79° 05' 16" E, 1059.17 feet

to corner No. 3, a 5/8 inch iron rod with plastic cap stamped "Cor. No. 3" set in the South line of State Highway No. 316 and being a common corner of the aforementioned 21.85 acre tract;

THENCE, from corner No. 3, continuing along the said South line of State Highway No. 316,

N 88° 44' 59" E, 55.90 feet

to corner No. 4, a 5/8 inch iron rod with plastic cap stamped "Cor. No. 4" set in the South line of State Highway No. 316;

THENCE, from corner No. 4, continuing with said South line of State Highway No. 316,

N 86° 29' 59" E, 2721.30 feet

to corner No. 5, a 5/8 inch iron rod with plastic cap stamped "Cor. No. 5" set in the South line of State Highway No. 316 marking the Point of a curve to the left;

THENCE, from corner No. 5, along with the chord bearing of said curve to the left, having a central angle of 08° 45' 16"; a radius of 1295.92 feet, an arc length of 198.01 feet;

N 82° 07' 21" E, 197.82 feet

to corner No. 6, a 5/8 inch iron rod found marking the Northwest corner of a 30.22 acre tract described as TRACT 3 in a Warranty Deed recorded in Volume 378, Pages 307-312 of the Calhoun County Deed Records;

THENCE, from corner No. 6, along the West line of the 30.22 acre tract.

S 03° 02' 59" E, 1060.24 feet passing a 5/8
inch iron rod found on line for reference and
a TOTAL DISTANCE of 1146.62 feet

to corner No. 7, a point in the existing waters of Foester Lake;

THENCE, from corner No. 7, along the South line of the 30.22 acre TRACT 3,

N 71° 47' 44" E, 1493.46 feet

to corner No. 8, a point in the existing waters of Foester Lake and being the Southeast corner of said TRACT 3;

THENCE, from corner No. 8, along the East line of said TRACT 3,

N 36° 36' 46" W, 484.63 feet

to corner No. 9, being in the existing waters of Foester Lake and bears S 36° 36' 46" E, 76.08 feet from a 5/8 inch iron rod found in the East line of said 30.22 acre TRACT 3;

THENCE, from corner No. 9, departing said East line of TRACT 3, with and along the outside toe of an existing dike on the East side of Foester Lake the following courses and distances:

S 72° 39' 17" E	63.57 feet to corner No. 10
S 63° 22' 07" E	135.08 feet to corner No. 11
S 68° 34' 10" E	79.36 feet to corner No. 12
S 62° 47' 05" E	115.75 feet to corner No. 13
S 68° 37' 10" E	108.07 feet to corner No. 14
S 65° 03' 34" E	99.71 feet to corner No. 15
S 71° 21' 58" E	116.14 feet to corner No. 16
S 59° 53' 05" E	107.84 feet to corner No. 17
S 42° 10' 26" E	81.64 feet to corner No. 18
S 26° 53' 48" E	44.81 feet to corner No. 19
S 35° 37' 28" E	153.13 feet to corner No. 20
S 22° 57' 43" E	118.67 feet to corner No. 21

S 25° 18' 47" E	113.46 feet to corner No. 22
S 17° 07' 24" E	130.37 feet to corner No. 23
S 02° 15' 57" E	322.50 feet to corner No. 24
S 07° 18' 33" W	54.26 feet to corner No. 25
S 01° 34' 02" W	65.06 feet to corner No. 26
S 03° 32' 02" W	168.26 feet to corner No. 27
S 20° 22' 28" E	117.11 feet to corner No. 28
S 18° 57' 33" E	88.42 feet to corner No. 29
S 09° 28' 49" E	276.06 feet to corner No. 30
S 11° 44' 22" E	141.78 feet to corner No. 31
S 08° 12' 06" E	167.40 feet to corner No. 32
S 06° 25' 28" E	514.18 feet to corner No. 33
S 38° 40' 45" E	39.09 feet to corner No. 34
S 00° 31' 26" W	153.94 feet

to corner No. 35, a point at the Terminus point and intersection of said outside toe of dike with the East margin of Foester Lake;

THENCE, from corner No. 35, along the East margin of Foester Lake the following courses and distances:

S 15° 36' 10" W	242.35 feet to corner No. 36
S 59° 08' 54" W	170.50 feet to corner No. 37
S 50° 30' 22" W	198.23 feet to corner No. 38
S 52° 00' 33" W	64.18 feet to corner No. 39
S 18° 08' 53" W	166.37 feet ,

to corner No. 40, a metal "T" post set inside a 2 inch PVC pipe at the point of intersection of the East margin of Foester Lake with the Northeast line of Block 29, Bayside Beach Unit No. 2 as per recorded plat in Volume Z, Page 40 of the Calhoun County Plat Records;

THENCE, from corner No. 40, departing the East margin of Foester Lake,

S 39° 30' 37" E, 2900.84 feet

to corner No. 41, a 5/8 inch iron rod with plastic cap stamped "Cor. No. 41" set near an existing corner fence post;

THENCE, from corner No. 41, along and Northeast of an existing fence line,

S 27° 46' 46" E, 341.15 feet

to corner No. 42, a 5/8 inch iron rod with plastic cap stamped "Cor. No. 42" set near an existing corner fence post;

THENCE, from corner No. 42, along an existing fence line,

S 02° 14' 22" W, 762.33 feet

to corner No. 43, a 5/8 inch iron rod with plastic cap stamped "Cor. No. 43" set near an existing corner fence post;

THENCE, from corner No. 43, along an existing fence line,

N 86° 02' 37" W, 749.04 feet

to corner No. 44, a 5/8 inch iron rod with plastic cap stamped "Cor. No. 44" set near an existing corner fence post;

THENCE, from corner No. 44, along an existing fence line,

S 03° 55' 29" W, at 1018.08 feet

passing a 2 inch iron pipe in concrete found on line at the end of said existing fence, and continuing on said course,

S 03° 55' 29"W, a TOTAL DISTANCE of
1467.05 feet

to corner No. 45, the point of intersection with the mean high or higher water line of the north shore of Powderhorn Lake for the Southeast corner of this tract as established by Duward Gail Ford, Licensed State Land Surveyor No. 348 on September 24, 1996;

THENCE, from corner No. 45, along the said mean high or higher water line of the north shore of Powderhorn Lake the following courses and distances:

S 71° 30' 28" W	53.52 feet to corner No. 46
S 84° 36' 35" W	63.57 feet to corner No. 47
N 26° 40' 27" E	38.25 feet to corner No. 48
N 29° 46' 53" W	45.35 feet to corner No. 49
N 46° 25' 03" W	39.93 feet to corner No. 50
S 26° 37' 07" W	40.43 feet to corner No. 51
S 64° 35' 17" W	90.15 feet to corner No. 52
N 59° 03' 05" W	48.80 feet to corner No. 53
S 01° 10' 45" W	129.87 feet to corner No. 54
S 32° 57' 31" W	126.06 feet to corner No. 55
S 02° 22' 56" W	37.14 feet to corner No. 56
S 36° 40' 08" W	53.13 feet to corner No. 57
S 58° 04' 12" W	74.80 feet to corner No. 58
S 40° 37' 49" W	58.96 feet to corner No. 59
S 77° 22' 41" W	39.09 feet to corner No. 60
S 42° 32' 29" W	39.36 feet to corner No. 61
S 59° 33' 27" W	8.87 feet

to corner No. 62, a point at the intersection of mean high or higher water line of the north shore of Powderhorn Lake with the Northeast boundary Line of the Nature Conservancy of Texas, Inc. 2940.486 acre tract. Said corner No. 62 bears N 38° 02' 24" W, 19.56 feet from corner No. 11 of the Nature Conservancy of Texas, Inc. Tract;

THENCE, from corner No. 62, with and along the Northeast line of said 2940.486 acre tract,

N 38° 02' 24" W, 1191.63 feet

to corner No. 63, a found 5" x 5" concrete monument with 2 inch iron pipe found on line and being corner No. 10 of the 2940.486 acre tract;

THENCE, from corner No. 63, continuing with said Northeast line,

N 38° 02' 24" W, 51.14 feet

to corner No. 64, a found 5" x 5" concrete monument with metal cap found on line and being corner No. 9 of the 2940.486 acre tract;

THENCE, from corner No. 64, continuing with said Northeast line,

N 38° 02' 24" W, 562.64 feet

to corner No. 65, a monument with an aluminum cap stamped "TR 30 Cor. No. 8" found in the Northeast line of the Nature Conservancy of Texas, Inc. tract;

THENCE, from corner No. 65, continuing with the Northeast line of the Nature Conservancy tract,

N 38° 01' 29" W, 220.19 feet

to corner No. 66, a 5" x 5" concrete monument with metal cap stamped "Whitmire Prop." found on line and being Corner No. 7 of the Nature Conservancy tract;

THENCE, from corner No. 66, continuing on said line,

N 38° 01' 29" W, 1911.04 feet

to corner No. 67, a 5" x 5" concrete monument with metal cap stamped "Whitmire Prop." found on line and being corner No. 6 of the Nature Conservancy tract;

THENCE, from corner No. 67, continuing with the Northeast boundary line of the Nature Conservancy of Texas, Inc. 2940.486 acre tract.

N 38° 01' 29" W, 7236.98 feet

to corner No. 1, the PLACE OF BEGINNING; CONTAINING within these metes and bounds 729.29 acres, more or less, situated in and a part of the Benito Morales Survey, A-28, and the Juan Cano Survey, A-5, Calhoun County, Texas.

NOTE: Bearings based on the Recorded Deed of the Nature Conservancy of Texas, Inc. 2940.486 acre tract in Volume 68, Pages 630-636 of the Calhoun County Official Records.

SAVE AND EXCEPT the following two Tracts of Land, more particularly described as follows:

EXCEPTED TRACT A

BEING a 61.75 acre tract of land situated in the Benito Morales Survey, Abstract 28, Calhoun County, Texas and being a part of that certain 166.26 acre tract, described in deed, dated April 12, 1955 from J.W. Doremus, et al to Myrtle H. Foester, et al and recorded in Volume 108, Page 171 of the Deed Records of Calhoun County, Texas and shown on plat of J.W. Doremus acreage in Bayside Beach and recorded in Volume Z, Page 200 of the Plat Records of Calhoun County, Texas and being a part of Blocks 118, 192, 202 and all of Blocks 186, 193 and 195 of the Bayside Beach Unit No. 1 as recorded in Volume Z, Page 27 and 28 of the Plat Records of Calhoun County, Texas and this 61.75 acre tract being more particularly described by metes and bounds as follows;

BEGINNING at an existing concrete monument at the north corner of a 2940.486 acre tract, described in Volume 68, Page 630 of the Official Records of said county and the most easterly corner of a 100 acre tract, described in Volume 394, Page 146 of the Deed Records of said county at the south corner of the Bayside Beach Highlands subdivision as recorded in Volume Z, Page 42 of the Plat Records of said county for the most westerly corner of the herein described tract;

THENCE North 51° 58' 53" East with the southeast line of the Bayside Beach Highlands Subdivision for a distance of 381.77 feet to an existing 5/8 inch iron rod in the curved south right-of-way line of State Highway No. 316 at the southwest corner of a 21.85 acre tract, described in Right-Of-Way Deed and recorded in Volume 37, Page 117 of the Deed Records of said county for a northwesterly corner of the herein described tract;

THENCE with said curve to the left, said curve having a delta angle of 29° 47' 50", a radius of 2059.86 feet, a tangent of 548.04 feet, a long chord of 1059.23 feet which bears South 79° 05' 13" East for an arc distance of 1071.25 feet to an existing 5/8 inch iron rod at the point of tangency of said curve;

THENCE North 88° 44' 59" East and continuing with the south right-of-way line of State Highway No. 316 for a distance of 55.90 feet to an existing 5/8 inch iron rod;

THENCE North 86° 29' 59" East and continuing with said right-of-way line for a distance of 2721.31 feet to an existing 5/8 inch iron rod at the point of curvature in said road;

THENCE with said curve to the left, said curve having a delta angle of $08^{\circ} 44' 17''$, a radius of 1295.92 feet, a tangent of 99.01 feet, a long chord of 197.45 feet which bears North $82^{\circ} 07' 50''$ East for an arc distance of 197.64 feet to an existing 5/8 inch iron rod at the northwest corner of a 30.22 acre tract, described in Volume 378, Page 307 of the Deed Records of said county for the northeast corner of the herein described tract;

THENCE South $03^{\circ} 01' 55''$ East with the west line of said 30.22 acre tract at 1060.13 feet pass an existing 5/8 inch iron rod on line and continuing for a total distance of 1067.78 feet to a point on the northerly boundary line of Foester Lake;

THENCE with the northerly boundary line of Foester Lake for the following courses and distances;

South $48^{\circ} 19' 52''$ West a distance of 18.33 feet,
South $58^{\circ} 12' 04''$ West a distance of 230.91 feet,
South $53^{\circ} 09' 21''$ West a distance of 184.00 feet,
South $60^{\circ} 59' 32''$ West a distance of 216.54 feet,
South $67^{\circ} 11' 21''$ West a distance of 128.08 feet,
South $84^{\circ} 25' 35''$ West a distance of 111.09 feet,
North $32^{\circ} 19' 07''$ West a distance of 97.63 feet,
North $44^{\circ} 59' 51''$ West a distance of 110.85 feet,
North $23^{\circ} 04' 16''$ West a distance of 115.48 feet,
North $14^{\circ} 19' 33''$ East a distance of 88.45 feet,
North $01^{\circ} 36' 48''$ East a distance of 161.11 feet,
North $16^{\circ} 30' 13''$ West a distance of 167.91 feet,
North $74^{\circ} 45' 13''$ West a distance of 235.34 feet,
North $65^{\circ} 20' 35''$ West a distance of 121.20 feet,
North $62^{\circ} 51' 49''$ West a distance of 143.53 feet,
North $75^{\circ} 30' 52''$ West a distance of 76.75 feet,
South $65^{\circ} 00' 22''$ West a distance of 35.44 feet,
North $79^{\circ} 26' 16''$ West a distance of 45.09 feet,
North $70^{\circ} 17' 59''$ West a distance of 111.86 feet,
South $86^{\circ} 11' 16''$ West a distance of 350.25 feet,
North $54^{\circ} 26' 46''$ West a distance of 38.50 feet,
North $68^{\circ} 43' 53''$ West a distance of 54.30 feet,
North $59^{\circ} 33' 54''$ West a distance of 83.89 feet,
South $83^{\circ} 45' 35''$ West a distance of 170.47 feet,
South $68^{\circ} 53' 47''$ West a distance of 117.59 feet,
South $59^{\circ} 16' 23''$ West a distance of 127.47 feet,
South $54^{\circ} 47' 20''$ West a distance of 92.14 feet,
South $66^{\circ} 18' 25''$ West a distance of 114.90 feet,
South $45^{\circ} 56' 25''$ West a distance of 128.70 feet,
South $59^{\circ} 39' 20''$ West a distance of 165.93 feet,
North $50^{\circ} 09' 35''$ West a distance of 113.24 feet,
North $12^{\circ} 12' 37''$ West a distance of 133.09 feet,
North $82^{\circ} 33' 46''$ West a distance of 87.96 feet,
North $16^{\circ} 03' 33''$ East a distance of 122.51 feet,

North 01° 38' 19" East a distance of 88.75 feet,
North 39° 14' 34" West a distance of 131.24 feet,
North 57° 18' 01" West a distance of 240.44 feet,
South 74° 29' 31" West a distance of 122.12 feet,
South 49° 20' 09" West a distance of 67.52 feet,
South 66° 26' 15" West a distance of 131.87 feet,
South 44° 34' 30" West a distance of 271.67 feet, and
South 46° 56' 04" West a distance of 123.39 feet, to a
point in the northeast line of the aforementioned 2940.486 acre tract for a southwesterly corner
of the herein described tract;

THENCE North 38° 01' 29" West with the northeast line of said 2940.486 acre tract at 20.00 feet
pass a set 5/8 inch iron rod on line and continuing for a total distance of 554.00 feet to the
POINT OF BEGINNING, Containing 61.75 acres of land.

Bearings are based on bearings of record as recorded in Volume 68, Page 630 of the Official
Records of Calhoun County, Texas.

EXCEPTED TRACT B

BEING a 0.18 acre tract of land situated partly out of the Benito Morales Survey, Abstract 28
and partly out of the Juan Cano Survey, Abstract 5 Calhoun County, Texas, and this 0.18 acre
tract of land being a small peninsula of land jutting into the waters of Foester Lake southward
beyond the south line of a 30.22 acre tract of land, described as Tract 3 in Warranty Deed dated
September 4, 1984 and recorded in Volume 278, Pages 307-312 of the Deed Records of Calhoun
County, Texas and this 0.18 acre tract of land being more particularly described by metes and
bounds as follows;

BEGINNING at a point in the southerly boundary line of the above mentioned 30.22 acre tract
for the northwest corner of the herein described tract, said point being located North 71° 49' 03"
East a distance 798.66 feet from a point at the southwest corner of said 30.22 acre tract;

THENCE North 71° 49' 29" East at 34.80 feet pass, an existing 5/8 inch iron rod on line and
continuing for a total distance of 49.25 feet to a point on the bank of Foester Lake;

THENCE with the meanders of Foester Lake for the following courses and distances;

South 28° 46' 23" East a distance of 161.60 feet,
South 79° 04' 50" West a distance of 29.01 feet,
North 77° 49' 46" West a distance of 25.16 feet,
North 32° 41' 53" West a distance of 91.24 feet and
North 24° 04' 32" West a distance of 54.43 feet to the
POINT OF BEGINNING, Containing 0.18 acre of land.

Bearings are based on bearings of record as recorded in Volume 68, Page 630 of the Official
Records of Calhoun County, Texas.

IDENTIFICATION OF ENCUMBRANCES

1. Right of Way Easement dated 3-17-1987, from Myrtle Foester Whitmire, et al to D. R. Whitmire, et ux, recorded in Vol. 47, Page 1003, Official Records of Calhoun County, Texas.
2. Oil, gas and mineral reservation by J. W. Doremus, et al, as set forth in Quitclaim Deed dated 8-8-1961, to Mrs. Myrtle Foester, recorded in Vol. 179, Page 116, Deed of Records of Calhoun County, Texas.
3. Oil, gas and mineral reservation as set forth in deed dated 2-7-1952, from J. W. Doremus to Curtis Foester, recorded in Volume 81, Page 221, Deed Records of Calhoun County, Texas.
4. Oil, gas and mineral reservation as set forth in deed dated 4-12-1955, from J. W. Doremus et al to Myrtle H. Foester, et al, recorded in Volume 108, Page 171, Deed Records of Calhoun County, Texas.
5. Oil, gas and mineral reservation as set forth in deed dated 2-7-1952, from J. W. Doremus to Curtis M. Foester, recorded in Volume 181, Page 453, of the Deed Records of Calhoun County, Texas.
6. Oil, gas and mineral lease granted to Great Plains Exploration Co. III, by instrument dated April 11, 1978, recorded in Volume 312, Page 824, of the Deed Records of Calhoun County, Texas.
7. Oil, gas and mineral lease granted to Great Plains Exploration Co. III, by instrument dated April 11, 1978, recorded in Volume 312, Page 829, of the Deed Records of Calhoun County, Texas.
8. Oil, gas and mineral lease granted to Great Plains Exploration Co. III, by instrument dated April 11, 1978, recorded in Volume 312, Page 834, of the Deed Records of Calhoun County, Texas.
9. Oil, gas and mineral lease granted to Great Plains Exploration Co. III, by instrument dated April 11, 1978, recorded in Volume 312, Page 840, of the Deed Records of Calhoun County, Texas.
10. Oil, gas and mineral lease granted to Great Plains Exploration Co. III, by instrument dated April 11, 1978, recorded in Volume 312, Page 846, of the Deed Records of Calhoun County, Texas.
11. Oil, gas and mineral lease granted to Great Plains Exploration Co. III, by instrument dated April 11, 1978, recorded in Volume 312, Page 852, of the Deed Records of Calhoun County, Texas.
12. Oil, gas and mineral lease granted to Great Plains Exploration Co. III, by instrument dated April 11, 1978, recorded in Volume 312, Page 858, of the Deed of Records of Calhoun County, Texas.

13. Oil, gas and mineral lease granted to Great Plains Exploration Co. III, by instrument dated April 11, 1978, recorded in Volume 312, Page 864, of the Deed Records of Calhoun County, Texas.
14. Oil, gas and mineral lease granted to Great Plains Exploration Co. III, by instrument dated April 11, 1978, recorded in Volume 312, Page 870, of the Deed Records of Calhoun County, Texas.
15. Oil, gas and mineral lease granted to Alcoa Mining Co., by instrument dated August 04, 1951, recorded in Volume 79, Page 483, of the Deed Records of Calhoun County, Texas.
16. Oil, gas and mineral lease granted to F. B. Cochran, Jr., by instrument dated January 01, 1968, recorded in Volume 239, Page 233, of the Deed Records of Calhoun County, Texas.
17. Oil, gas and mineral conveyance as set forth in Volume 66, Page 597, Deed Records of Calhoun County, Texas.
18. Mineral Deeds recorded in Volume 92, Page 80, and Volume 92, Page 82, Deed Records of Calhoun County, Texas.
19. Right of Way as recorded in Volume 37, Page 386, Deed Records of Calhoun County, Texas.
20. Oil, gas and mineral reservation as recorded in Volume 148, Page 383, Deed Records of Calhoun County, Texas.
21. Right of Way as recorded in Volume 352, Page 893, Deed Records of Calhoun County, Texas.
22. Right of Way as recorded in Volume 71, Page 389, Deed Records of Calhoun County, Texas.
23. The rights of W.B. McCarter, Jr. under that certain Life Easement and Profit dated November 9, 1998 from Curtis Foester Ranch, a partnership, and Ada Beth Bone, Curtis M. Foester, Jr., and Myrtle Foester Whitmire individually to W.B. McCarter, Jr., a memorandum of which is recorded in Volume 216, Page 869 of the Official Records of Real Property of Calhoun County, Texas.
24. Mineral Deed without Warranty dated May 19, 2000 executed by Murphy Properties, Inc. to Ara Parrish, recorded in Volume 257, Page 284 of the Official Records of Real Property of Calhoun County, Texas.
25. Any portion of the property which may lie within any public right of way or roadway.
26. Any other leases or agreements affecting the mineral estate entered into by holders of the mineral estate.
27. Taxes for the calendar year in which the closing occurs.

28. Any other rights, interests, or encumbrances agreed to in writing by the U.S. Fish and Wildlife Service.

Exhibit 3

Marsh Implementation Plan

1.0 INTRODUCTION

To compensate for the interim loss of ecological services from intertidal salt marsh and subtidal benthic habitat, resulting from releases of hazardous substances at or from the Alcoa Point Comfort/Lavaca Bay Site and the loss of aquatic habitat due to remedial actions in Lavaca Bay, Alcoa shall construct a minimum of 69.3 acres of intertidal saltmarsh on the north shore of Powderhorn Lake in the Matagorda Bay system in the approximate location depicted as the Restored Marsh area on Annex 3-A attached hereto. The constructed marsh will be similar to adjacent natural marshes and will be constructed pursuant to a plan designed to maximize habitat value to provide ecological services important for the continued success of estuarine biota in Lavaca Bay. It is anticipated that the ecological services provided by the constructed marsh will benefit a wide range of biological resources, including developing and adult finfish; juvenile shrimp and crabs; oysters and other benthic invertebrates; shorebirds, migratory waterfowl, and avian marsh predators.

The north shore of Powderhorn Lake was selected as the site for marsh construction because it is near the impacted area and will promote the preservation of potentially threatened coastal habitat. Long-term success of the created ecosystem and adjacent natural marsh will be advanced by the construction of a permanent breakwater between the constructed marsh system and the open waters of Powderhorn Lake. The selected construction site is adjacent to a thriving natural marsh and will be managed by DOI/FWS as a part of the Aransas National Wildlife Refuge.

The Trustees have determined that if the constructed marsh meets the construction and performance criteria outlined in this plan, there is reasonable assurance that the ecological services needed to offset service losses will be provided over time.

The performance criteria define short-term milestones that, if met, will provide reasonable assurance of project success in the long-term. Monitoring provides the information necessary to determine whether the project is trending toward these milestones or whether corrective action may be appropriate.

2.0 PROJECT IMPLEMENTATION

2.1 Construction Criteria

Alcoa shall implement the selected marsh restoration alternative described in the Final Ecological DARP ("Marsh Restoration Project") in accordance with the following construction criteria:

a. Onshore Marsh. Construct an intertidal marsh by excavating and grading approximately 30.3 acres ("Onshore Marsh") at the approximate location depicted as the "31 Acres of Restored Marsh-Onshore" area shown on Annex 3-A. The Onshore Marsh shall be designed and constructed in accordance with the following requirements:

i. Surface soils at the construction site will be removed, stockpiled, and used to cover planting areas.

ii. Approximately 75% of the 30.3 acres will have an elevation between 0.5 and 1.6 NGVD, and no less than 70% of the 30.3 acres will be within this elevation.

iii. Approximately 25% of 30.3 acres will be open water, but no less than 20% and no more than 30% of the 30.3 acres will be open water.

iv. Two (2) to five (5) primary channels will be constructed to converge on the Freshwater Inflow Channel (described in Section 2.1.d below). The primary channels in the Onshore Marsh will be approximately 21 feet wide at the top of the cut and approximately 8 feet wide at the base with a side slope of approximately 3:1.

v. Secondary channels generally will provide connections between primary channels to provide cross flow, and connect primary channels with distal marsh areas. The secondary channels will be constructed so that all vegetated areas will be located within approximately ten (10) meters of a primary or secondary channel or open water.

b. Offshore Marsh. Construct approximately 39 acres of intertidal marsh by filling and grading submerged bay bottom ("Offshore Marsh") at the approximate location depicted as the "39 Acres of Restored Marsh-Offshore" area shown on Annex 3-A. The Offshore Marsh shall be designed and constructed in accordance with the following construction criteria:

i. Approximately 65% of the 39 acres will have an elevation between 0.5 and 1.6 NGVD, and no less than 60% of the 39 acres will be within this elevation.

ii. Approximately 35% of the 39 acres will be open water, but no less than 30% and no more than 40% of the 39 acres will be open water.

iii. Primary channels will be connected to gaps in the breakwater and will converge into 2 to 5 channels prior to entering the Onshore Marsh. The primary channels will be approximately 35 feet wide at the top of the cut and approximately 10 feet wide at the base with a side slope of approximately 4:1. Channels will be constructed so that all vegetated areas will be located within approximately ten (10) meters of a primary or secondary channel or open water.

c. Breakwater. Construct a breakwater/wave barrier to enclose 39 acres of submerged bay bottom and to protect approximately 3,900 feet of Powderhorn Lake shoreline. The breakwater will be constructed to extend from the existing Aransas National Wildlife Refuge road, where it intersects the lake shore, to a point on the shoreline approximately 450 feet southwest of the mouth of the Foester Lake discharge channel. The breakwater will be designed in accordance with the cross-section detail depicted as Breakwater Section A-A on Annex 3-B, attached hereto, and the following additional construction criteria:

i. The breakwater will be approximately 4,900 feet long.

ii. The elevation of the crest of the breakwater will be no less than 0.5 feet above average high water.

iii. There will be 5 to 10 gaps in the breakwater that will connect to primary channels to provide a direct connection between the openings in the breakwater and all parts of the Onshore Marsh and the Offshore Marsh.

d. Freshwater Inflow Channel. A freshwater inflow channel, designed as a primary channel in the Onshore Marsh, will be excavated to connect drainage from Foester Lake to the upper end of the Onshore Marsh.

e. Transitional Zone. A Transitional Zone will be constructed between the Onshore Marsh and the surrounding coastal uplands with a slope of approximately 4:1. Approximately 0.5 feet of soil will be redistributed over the Transitional Zone from the top of the adjacent intertidal planting area to the edge of the surrounding coastal uplands.

f. Permanent Elevation Markers. Three to five permanent elevation markers will be established in the primary channels near the breakwater and on dry land adjacent to the Onshore Marsh.

2.2 Marsh Restoration Work Plan

Alcoa shall develop a Marsh Restoration Work Plan for its internal use. The Work Plan will be provided to the Lead Administrative Trustee for comment by the Trustees. The Work Plan will be used during contractor selection and to coordinate construction activities. The construction and planting schedule may be provided to the Lead Administrative Trustee separately from the remainder of the Work Plan. The Work Plan will contain the following information:

- a. Site Description:
 - i. Aerial photography of the site
 - ii. Current elevations of the site
 - iii. General description of existing vegetation at the site
- b. A general planting diagram showing planting areas bounded by supratidal shoreline and primary channels. Planting areas bounded by secondary channels will only be represented conceptually.
- c. Construction requirements, including construction criteria specified in Section 2.1, cross-sectional engineering drawings of the breakwater, a typical planting area, typical channel, and the transitional zone between the marsh and adjacent uplands.
- d. Planting criteria specified in Section 2.5.
- e. Construction schedule showing the chronological relationship between construction tasks. The actual start and finish date will be determined by environmental conditions.
- f. Planting schedule. The actual start and finish dates will be determined by ecological conditions.
- g. Copies of all permits or other authorizations necessary to carry out this Implementation Plan.

The Trustees have previously reviewed the draft Work Plan submitted on April 7, 2003 and found no material inconsistencies with the construction criteria in this Marsh Implementation Plan. The Trustees also will be provided the opportunity to consider Alcoa's final Work Plan. Within 14 days after receipt of the final Work Plan, the Lead Administrative Trustee will provide written notice to Alcoa whether or not the Trustees find that there are material inconsistencies between the Work Plan and the construction criteria in this Marsh Implementation Plan. If any material inconsistencies are identified, or if the Trustees need additional information about details included in the Work Plan to ensure compliance with the construction criteria, the Lead Administrative Trustee will arrange a meeting between Alcoa and the Trustees to discuss the Work Plan. The Trustees will provide a written statement of their position with respect to any material inconsistencies within 14 days of the meeting.

2.3 Construction Certification

Within 30 days after the completion of construction, Alcoa will provide its post-construction report to the Lead Administrative Trustee for Trustee evaluation in accordance with Paragraph 46 of the Consent Decree. The post-construction report will consist of an as-built survey and aerial photographs, as described below. After receiving the report, the Lead Administrative Trustee may establish a date for a construction inspection by the Trustees, in accordance with Paragraph 46 of the Consent Decree, such inspection to occur within 14 days of receipt of post-construction report.

The Trustees shall evaluate the report and the results of any inspection they may undertake, and if the Trustees agree that the construction criteria identified in Section 2.1 have been met, the Lead Administrative Trustee shall issue a written notice on behalf of all Trustees certifying completion of construction of the Marsh Restoration Project in accordance with Paragraph 47 of the Consent Decree ("Certification of Completion of Marsh Construction") within the later of 30 days after receipt of the Post-Construction Report or any construction inspection of the Marsh Project Site requested under Paragraph 46 of the Consent Decree. If the Trustees do not agree that the construction criteria have been met, the Lead Administrative Trustee will arrange a meeting between the Trustees and Alcoa to discuss whether the construction criteria have been met and whether any additional steps are needed to meet the construction criteria.

The timelines in this Section 2.3 have been intentionally shortened to allow planting of the marsh to commence as soon as possible after the marsh has been constructed.

2.3.1 As-Built Survey

After earthwork is complete, but before planting is initiated, a sealed topographic as-built survey will be conducted by a licensed surveyor. The survey will be conducted to verify that the construction criteria have been met.

2.3.2 Aerial Photography

After earthwork is complete, but before planting is initiated, aerial photographs will be taken with a scale of approximately 1 inch=100 feet.

2.4 Construction Completion

Alcoa shall establish that the Marsh Restoration Project meets the construction criteria required to obtain a Certification of Completion of Marsh Construction by July 1, 2007.

2.5 Planting Criteria

Alcoa shall implement the Marsh Restoration Project in accordance with the following planting criteria:

- a. Planting will be undertaken in areas with elevations that are considered to be supportive of acceptable emergent marsh vegetation, *i.e.* elevations that are no less than +0.5 ft. and no greater than + 1.6 ft. NGVD. Planting areas will be designated based on final elevation achieved during construction.
- b. Approximately 4 in. plugs of *Spartina alterniflora* will be planted on 5 ft. centers, in all planting areas in the constructed marsh.
- c. Approximately 4 in. plugs of *Spartina patens* will be planted in 2 to 3 rows, on 3 to 5 ft. centers, on the lower edge of the Transitional Zone above the upper elevation limit for *Spartina alterniflora*. To reduce erosion before the plants are established, the remainder of the Transitional Zone will be seeded with a fast-growing grass.

3.0 PERFORMANCE MONITORING

Performance criteria define short-term milestones that, if met, will provide reasonable assurance of project success in the long term. Monitoring provides information necessary to determine whether the project is trending toward these milestones or whether corrective action may be appropriate.

3.1 Performance Criteria

The performance criteria are listed below.

- a. Phase 1. The performance criterion for Phase 1 is growth of emergent marsh vegetation that results in achievement of the "Phase 1 Milestone." The Phase 1 Milestone shall be considered achieved when the planted areas of the constructed marsh, on average, have at least 75% foliar cover in the Onshore Marsh and at least 75% foliar cover in the Offshore Marsh.
- b. Phase 2. The performance criterion for Phase 2 is sustained life of emergent marsh vegetation that results in achievement of the "Phase 2 Milestone." Once the Phase 1 Milestone is achieved, the project will enter Phase 2 monitoring which will continue until the Phase 2 Milestone is achieved. The Phase 2 Milestone is achieved when the planted areas of the constructed marsh, on average, continue to have at least 75% foliar cover and this condition is maintained without Major Corrective Action for a period of two (2) years.

- c. In determining whether the Phase 1 Milestone or the Phase 2 Milestone has been achieved, the following additional criteria must be met:
 - (i) The foliar cover of acceptable plant species (as identified at Section 3.2.5) must be approximately 90% of the total foliar cover estimate;
 - (ii) Primary channels must be open and free-flowing, without substantial sediment buildup or evidence of closure;
 - (iii) The minimum water depth at average low water level shall be no less than 0.5 ft in primary channels, and secondary channels must provide water flow at average high water level, but need not contain standing water at average low water level; and
 - (iv) Approximately 45 acres of emergent marsh must be present based on aerial photo review.
- d. Maintenance of compliance with construction criteria shall not be required following Certification of Completion of Marsh Construction and shall not be a performance criterion.

3.2 Monitoring Events

3.2.1 Monitoring Schedule

Marsh performance monitoring will be conducted in two phases for up to a maximum of seven (7) years after Certification of Completion of Marsh Construction. Phase 1, which is considered a post-planting growth phase, will continue until the Phase 1 Milestone is achieved. Phase 2, which is a performance maintenance period, will continue for at least two (2) years to determine whether the Phase 2 Milestone is achieved. The monitoring period will conclude at the earlier of seven (7) years after Certification of Completion of Marsh Construction or achievement of the Phase 2 Milestone.

3.2.2 Monitoring Methods

Monitoring will be conducted using both qualitative and quantitative field methods to determine progress toward achievement of the Phase 1 and Phase 2 Milestones. The methods employed will depend on the specific objective for that phase of monitoring. Qualitative monitoring will involve visual observations and professional judgment. Qualitative surveys may also incorporate ground-level photographs to document trends in desired characteristics. Quantitative monitoring will involve the use of vegetation surveys and/or aerial photo techniques that quantitatively document relevant marsh characteristics and progress toward performance metrics. The monitoring methods are listed in Table 3.1.

If a modification to a method described in Table 3.1 is proposed for use during Phase 2 monitoring, Alcoa shall propose the modifications to the Lead Administrative Trustee, who will arrange a meeting with Alcoa and the Trustees, if necessary, to discuss proposed changes and new data objectives.

Table 3.1 Post-construction Monitoring Methods			
Event	Schedule	Characteristics to Evaluate	Methods
Post-construction Report	Within 30 days after completion of construction	Elevation and slope of constructed marsh	As-Built Survey by licensed surveyor <ul style="list-style-type: none"> Survey of all planned planting areas Survey of channel depth and grade As-built drawing showing channels, swales, and planting areas
		Breakwater	As-Built Survey by licensed surveyor
		Aerial photographs	Scale 1:100 (digitized)
50% Survival	Monitoring completed by the end of 1 st Growing Season; Report due February 28 th following the end of the 1 st growing season	Plant Survival	Visual observation (Primary) Field inspection ¹ (Verification method, if needed)
Phase 1 Monitoring	Annual; Report due February 28 th following the end of the Growing Season	Foliar Cover (Qualitative)	Visual observation
		Desirable vegetation	Visual observation
		Breakwater integrity	Visual observation
		Channel integrity	Visual observation
		Wildlife utilization	Visual observation
End of Phase 1 Monitoring	End of Phase 1	Foliar cover (quantitative)	Foliar cover analysis <ul style="list-style-type: none"> Aerial photo review and Cruise Survey Method² (Primary) Point Intercept Method³ (Verification method for desirable species, if needed) Other quantitative method acceptable to Alcoa and the Trustees (must include photographs).
		Desirable vegetation	Determined as part of foliar cover analysis
		Breakwater integrity	Visual observation
		Channel integrity	Visual observation
		Wildlife utilization	Visual observation
		Aerial Photograph	Scale 1:100 (digitized)
Phase 2 Monitoring	Annual; Report due February 28 th following the end of	Foliar Cover (Qualitative)	Visual observation
		Desirable vegetation	Visual observation
		Breakwater integrity	Visual observation

¹ The field inspection shall consist of an inspection of plants on several 3 to 5 ft. wide transects that are representative of Onshore and Offshore marsh. The number of live and dead planted plugs on each transect will be counted, and the percent survival in each marsh section will be an average of the percent surviving on the transects in each section.

² The Cruise Survey Method consists of delineation of foliar cover on an aerial photo followed by limited field validation. Vegetative composition and percent desirable species are estimated in the field during the validation exercise.

³ The Point Intercept Method consists of employing a sighting device or pin/point frame along a set of transects to verify species composition. This method will be used, if needed, for field verification of Cruise Survey Method. Available Online: <http://fire.r9.fws.gov/ifcc/monitor/point-intercept.htm>

Table 3.1 Post-construction Monitoring Methods

Event	Schedule	Characteristics to Evaluate	Methods
	the Growing Season	Channel integrity	Visual observation
		Wildlife utilization	Visual observation
End of Phase 2 Monitoring	End of Phase 2	Foliar cover	Foliar cover analysis <ul style="list-style-type: none"> - Aerial photo review and Cruise Survey Method (Primary) - Point Intercept Method (Verification method for desirable species, if needed)
		Desirable vegetation	Determined as part of foliar cover analysis
		Breakwater integrity	Visual observation
		Channel integrity	Visual observation
		Wildlife utilization	Visual observation
		Aerial Photograph	Scale 1:100 (digitized)

3.2.3 Phase 1 Monitoring

The objective for Phase 1 monitoring is to document progress toward the establishment of a functioning marsh and to determine whether the Phase 1 Milestone has been met. At the end of the first growing season Alcoa will monitor the marshes to determine if at least 50% of the planted vegetation has survived in each of the seven (7) monitoring zones of the Onshore Marsh and the Offshore Marsh, as depicted in Annex 3-C (or in a similar map accepted by Alcoa and the Trustees). Alcoa shall provide ten (10) days advance notice to the Lead Administrative Trustee of that monitoring event. During the survival assessment, plants inspected by Alcoa will be considered alive if: (1) above-ground vegetation is green and growing; (2) original above-ground vegetation has been lost but new sprouts have emerged; or (3) original above-ground vegetation has been lost but the roots and rhizomes are alive. Thereafter, marsh growth and development will be monitored at least annually with qualitative and/or quantitative monitoring methods that are consistent with Table 3.1 to determine whether corrective action is necessary. Within 14 days after Alcoa determines, based on a quantitative and/or qualitative assessment, that corrective action is necessary, Alcoa will provide notice to the Lead Administrative Trustee, and it will follow corrective action procedures in accordance with Paragraphs 53-62 of the Consent Decree. If Alcoa determines that no corrective action is necessary, the information obtained during the inspections can be included in the annual report to be provided pursuant to Section 5.3

The first monitoring event to determine whether the Phase 1 Milestone has been achieved will be conducted between October 15 and November 15 and is expected to occur at the end of the second or third growing season, at the discretion of Alcoa. The inspection will focus on the density and composition of transplanted and naturally occurring vegetation, and the relative growth of undesirable species. The integrity of the constructed breakwater will be noted. Tidal channels will be inspected to assure they are free flowing and have no obstructions. Wildlife utilization will be documented but not quantitatively measured.

Characteristics to be monitored include:

- Foliar cover (quantitative)

- Growth of invasive undesirable vegetation (quantitative)
- Breakwater integrity (qualitative)
- Channel integrity (qualitative)
- Wildlife utilization (qualitative)
- Size of the emergent marsh (aerial photograph)
- Aerial photograph

If the data collected during the monitoring event indicate that the Phase 1 Milestone has been met, Alcoa will provide its Phase 1 Milestone Report to the Lead Administrative Trustee for Trustee evaluation. After receiving the report, the Lead Administrative Trustee may establish a date for an inspection by the Trustees, as authorized by Paragraph 43(h) of the Consent Decree.

The Trustees shall evaluate the report and the results of any inspection they may undertake, and within the later of 60 days after receipt of the Phase 1 Milestone Report or any joint inspection of the Marsh Project Site requested under Paragraph 43(h) of the Consent Decree, the Lead Administrative Trustee will notify Alcoa whether the Trustees agree that the Phase 1 Milestone has been met.

If the Trustees agree that the Phase 1 Milestone has been met, then Alcoa shall commence Phase 2 Monitoring. If the Trustees do not agree that the Phase 1 Milestone has been met in the Marsh Restoration Project, Alcoa will continue to monitor until such milestone has been met up to a maximum of seven (7) years after Certification of Completion of Marsh Construction or until the Certification of Completion of Marsh Restoration Project is issued pursuant to Paragraph 50 of the Consent Decree.

3.2.4 Phase 2 Monitoring

Phase 2 monitoring will begin when the Phase 1 Milestone has been achieved. The objective for Phase 2 monitoring is to document the sustained performance of the constructed marsh for desired characteristics following achievement of the Phase 1 Milestone and to determine when the Phase 2 Milestone has been met. During Phase 2, the marsh will be monitored once per year, at the end of the growing season.

A Phase 2 monitoring inspection will be conducted at the end of the second growing season after Phase 1. The objective of the inspection will be to document that the Phase 2 Milestone has been achieved and the marsh is performing at the desired level.

Characteristics to be monitored include:

- Foliar cover (quantitative)
- Growth of invasive undesirable vegetation (quantitative)
- Breakwater integrity (qualitative)
- Channel integrity (qualitative)
- Wildlife utilization (qualitative)
- Size of the emergent marsh (aerial photograph)
- Aerial photograph

If the data collected during the Phase 2 monitoring indicate that the Phase 2 Milestone has been met, Alcoa will provide its Phase 2 Milestone Report to the Lead Administrative Trustee for Trustee evaluation. After receiving the report, the Lead Administrative Trustee may establish a date for an inspection by the Trustees, as authorized by Paragraph 43(h) of the Consent Decree.

The Trustees shall evaluate the report and the results of any inspection they may undertake, and within the later of 60 days after receipt of the Phase 2 Milestone Report or any joint inspection of the Marsh Project Site requested under Paragraph 43(h) of the Consent Decree, the Lead Administrative Trustee will notify Alcoa whether the Trustees agree that the Phase 2 Milestone has been met.

If the Trustees agree that the Phase 2 Milestone has been met, then the Lead Administrative Trustee will issue a letter certifying that the Marsh Restoration Project is complete (Certification of Completion of Marsh Restoration Project) in accordance with Paragraph 50 of the Consent Decree. If the Trustees do not agree that the Phase 2 Milestone has been met in the Marsh Restoration Project, Alcoa will continue to monitor until such milestone has been met up to a maximum of seven (7) years after Certification of Completion of Marsh Construction or until the Certification of Completion of Marsh Restoration Project is issued pursuant to Paragraph 50 of the Consent Decree.

3.2.5 Acceptable and Unacceptable Marsh Plant Species

Acceptable marsh plant species are species that will be planted or are natural native colonizers in the intertidal areas. Acceptable marsh vegetation includes native species commonly associated with intertidal marsh habitats along the Texas Gulf coast. The acceptable plant species for this project are shown below:

Preferred Species to be Planted

Smooth Cordgrass (*Spartina alterniflora*)
Marshhay Cordgrass (*Spartina patens*) in transition zones to uplands

Other Acceptable Species via Natural Colonization

Olney Bulrush (*Schoenoplectus americanus*)
California Bulrush (*Schoenoplectus californicus*)
Salt marsh Bulrush (*Schoenoplectus robustus*)
Black Needlerush (*Juncus roemerianus*)
Sedges (*Carex* spp)
Common Reed (*Phragmites australis*)
Seashore Paspalum (*Paspalum vaginatum*)
Seashore Salt Grass (*Distichlis spicata*)
Sea-oxeye (*Borrchia frutescens*)
Saw Grass (*Cladium jamaicense*)
Southern Cattail (*Typha domingensis*)
Narrow-leaved Cattail (*Typha angustifolia*)
Common Cattail (*Typha latifolia*)
Yellow Loosestrife (*Lysamachia* spp)

Pickerelweed (*Pontederia cordata*)
Arrowhead (*Sagittaria* spp)
Knotweed (*Polygonum* spp)

The following plant species should not be planted in the constructed marsh, and they shall be removed if observed during monitoring events:

Unacceptable Species

Saltcedar (*Tamarix* sp.)
Chinese Tallow (*Sapium sebiferum*)

Alcoa shall not plant any plant species that are prohibited from being planted under the terms of any permit issued to Alcoa in connection with the Marsh Restoration Project.

4.0 MAJOR AND MINOR CORRECTIVE ACTIONS

4.1 Minor Corrective Actions

During Phase 1 monitoring, normal routine maintenance of the marsh is expected. Routine maintenance includes activities that may be considered minor corrective actions. Alcoa may conduct any minor corrective actions that it believes are necessary to assist or enhance the growth and development of the marsh. Alcoa may perform such activities without prior approval from the Lead Administrative Trustee, however, the Lead Administrative Trustee may suggest that a minor corrective action be undertaken. Examples of minor corrective actions include the following:

- a. Replanting or reseeding portions of the marsh, where individual replanted or reseeded areas are less than 10% of the contiguous area of the marsh.
- b. Removal of debris and other obstructions from channels.
- c. Removal of unacceptable plant species specified in Section 3.2.5.

Alcoa and Trustees agree that, during Phase 2, except for the removal of debris or other obstructions from channels, minor corrective actions will not be performed without prior approval of the Lead Administrative Trustee.

4.2 Major Corrective Actions

After Certification of Completion of Marsh Construction, the Lead Administrative Trustee, on behalf of the Trustees, may require Alcoa to undertake a corrective action pursuant to the requirements of Paragraphs 53-62 of the Consent Decree and this Implementation Plan. Prior to performing any major corrective action, Alcoa will obtain approval of the Lead Administrative Trustee pursuant to Paragraphs 56-58 of the Consent Decree.

4.3 Triggers for Consideration of Major and Minor Corrective Actions

Plant survival after the first growing season is an important early milestone for the potential success of the constructed marsh. Alcoa and the Trustees expect that, on a small scale, there will be varying success rates for survival of plants from the initial planting, with certain areas of

the marsh being more successful than others. In order to meet the Phase 1 Milestone, as a minor corrective action, Alcoa may choose to replant or reseed small areas of the marsh with a lower success rate in order to achieve the Phase 1 Milestone. However, if an inspection demonstrates that there is less than 50% survival of planted vegetation in any of the seven (7) monitoring zones of the Onshore Marsh and the Offshore Marsh, as depicted in Annex 3-C (or in a similar map accepted by Alcoa and the Trustees) at the end of the first growing season, Alcoa will meet with the Trustees to discuss possible causes and whether corrective action, including a major corrective action, is needed. The major corrective action may include replanting and/or reseeding large portions of the marsh subject to Section 4.4 below. Plugs from daughter shoots within better performing planted platforms may be used in replanting efforts if planting material available in the nursery is insufficient to complete the replanting.

If, at the time Alcoa chooses to conduct the quantitative monitoring inspection to determine achievement of the Phase 1 Milestone, field studies indicate that the constructed marsh has not achieved that milestone, Alcoa and the Trustees will meet to discuss the reasons why that milestone has not been met and to evaluate possible corrective actions. If Alcoa and the Trustees agree that major corrective action is appropriate or if the Lead Administrative Trustee, on behalf of the Trustees, issues a letter requiring major corrective action, Alcoa will be responsible for implementing the major corrective action subject to dispute resolution under the Consent Decree. Once the Phase 1 Milestone is met and the Lead Administrative Trustee has issued a notice that the marsh is considered to be established, in accordance with Section 3.2.3, Phase 2 monitoring will begin.

If after two (2) years of Phase 2 monitoring, the marsh has not achieved the Phase 2 Milestone, Alcoa and the Trustees will meet to evaluate the cause of why that milestone has not been met and whether major corrective action is appropriate. If Alcoa and the Trustees agree that major corrective action is appropriate or if the Lead Administrative Trustee, on behalf of the Trustees, issues a letter requiring major corrective action, Alcoa will be responsible for implementing the major corrective action, subject to dispute resolution under the Consent Decree. Additional annual monitoring events will be required until a maximum of 7 years after Certification of Completion of Marsh Construction or until the marsh reaches the Phase 2 Milestone and the Lead Administrative Trustee issues a Certification of Completion of the Marsh Restoration Project.

The Trustees have the option of extending the Phase 2 monitoring period by up to two (2) years if major corrective actions are required during the Phase 2 monitoring period or if the Phase 2 Milestone has not been met after two (2) years. Under no circumstances (during either Phase 1 or 2) will the use of fertilizers be allowed to meet an applicable milestone nor will monitoring continue for more than seven (7) years following Certification of Completion of Marsh Construction.

4.4 Limitations on Performance of Major Corrective Action

- a. After Alcoa has submitted a post-construction report establishing that construction has been completed in accordance with the construction criteria, major corrective actions shall be limited to the following described activities and in no event shall Alcoa be required to perform major corrective actions, which either individually or in the aggregate, exceed the applicable limitation for each such activity as set forth in this

Section 4.3:

- i. Mechanical earthmoving activities will be limited to either a total of 3 separate mobilizations of earthmoving equipment or a total of 9 acres;
 - (A) If the earthmoving activity involves vegetated wetlands, each mobilization must include a cumulative area of more than 1 acre of vegetated wetlands.
 - (B) Mechanical removal of sediment/plugs from primary channels will be subject to the 3-mobilizations limit, and will include the correction of the cause of the obstruction;
 - ii. The addition of stone to the breakwater will be limited to 20% of the length of the breakwater at the time of submission of the post-construction report; and/or
 - iii. Reworking of the breakwater will be limited to 20% of the volume of the breakwater at the time of submission of the post-construction report.
- b. After Alcoa has met the 50% plant survival requirement described in Section 3.2.3, replanting will be limited to a total of 100% of the total plants used in the original planting of constructed marsh.
 - c. The above activity-based corrective action limits are not subject to the monetary limitation for restoration activities conducted in response to an Event, as described in Paragraph 63 of the Consent Decree.

5.0 RECORD KEEPING AND REPORTING

Results of all field monitoring efforts and activities will be documented and provided to the Lead Administrative Trustee for review as described below. Reporting will involve five types of reports:

- Post-construction report;
- Field log with annual summary of qualitative monitoring events;
- Phase 1 Milestone, Phase 2 Milestone and/or Final Project Report;
- Corrective Action documentation; and
- Event documentation

5.1 Post-construction Report

A post-construction report will be prepared that includes the as-built survey and aerial photographs. The post construction report will be provided to the Lead Administrative Trustee within 30 days after all construction activities have been completed. The information provided in the post-construction report will be used by the Lead Administrative Trustee, after consulting with the other Trustees, to certify completion of construction.

5.2 Corrective Action Documentation

Alcoa will provide to the Lead Administrative Trustee corrective action documentation in accordance with Paragraphs 54 - 57 and 59 - 60 of the Consent Decree.

5.3 Field Log with Annual Summary of Qualitative Monitoring Events

During periods when no quantitative field surveys are conducted (i.e., only qualitative surveys are performed), a field log will be maintained to record all field activities. Examples of information and/or activities that will be recorded include:

- All scheduled or unscheduled site visits,
- Monitoring events,
- Daily observations and daily activities, including those relating to minor or major corrective actions and events, and,
- Plant survival.

A copy of the field log and a description of the characteristics evaluated in the qualitative surveys required by Table 3.1 will be provided to the Lead Administrative Trustee on an annual basis, within 60 days following the Fall monitoring event.

5.4 Phase 1/Phase 2 Milestone Reports

When quantitative Phase 1/Phase 2 surveys are conducted, a formal monitoring report will be prepared to document the field survey methods required by Table 3.1, results and analysis associated with each monitoring event. The report will include at a minimum the following:

- A brief summary of quantitative and qualitative data collected.
- Monitoring results and analysis, including tables and photographs (when appropriate).
- A copy of the field log.
- Site maps showing data collection locations and results, as appropriate.
- Summary of any minor corrective actions taken.
- Observations that suggest whether significant problems may exist, an evaluation of possible causes and recommended major corrective actions.
- Results/outcomes from previous corrective actions.

Additionally the following observations and actions should be made or carried out during each monitoring event.

- Record tidal stream depths relative to surface elevation of the planting area, and conditions of the primary channel connections.
- Record the salinity and temperature of the water at one location on the site
- Record and generally locate on the site map the presence and approximate numbers and density of any epibenthic invertebrates, wading birds, and fish observed during the monitoring.
- Remove all trash from the site.

5.5 Event Documentation

Alcoa will provide to the Lead Administrative Trustee event documentation in accordance with Paragraphs 64, 66, and 68-70 of the Consent Decree.

6.0 FINAL CERTIFICATION

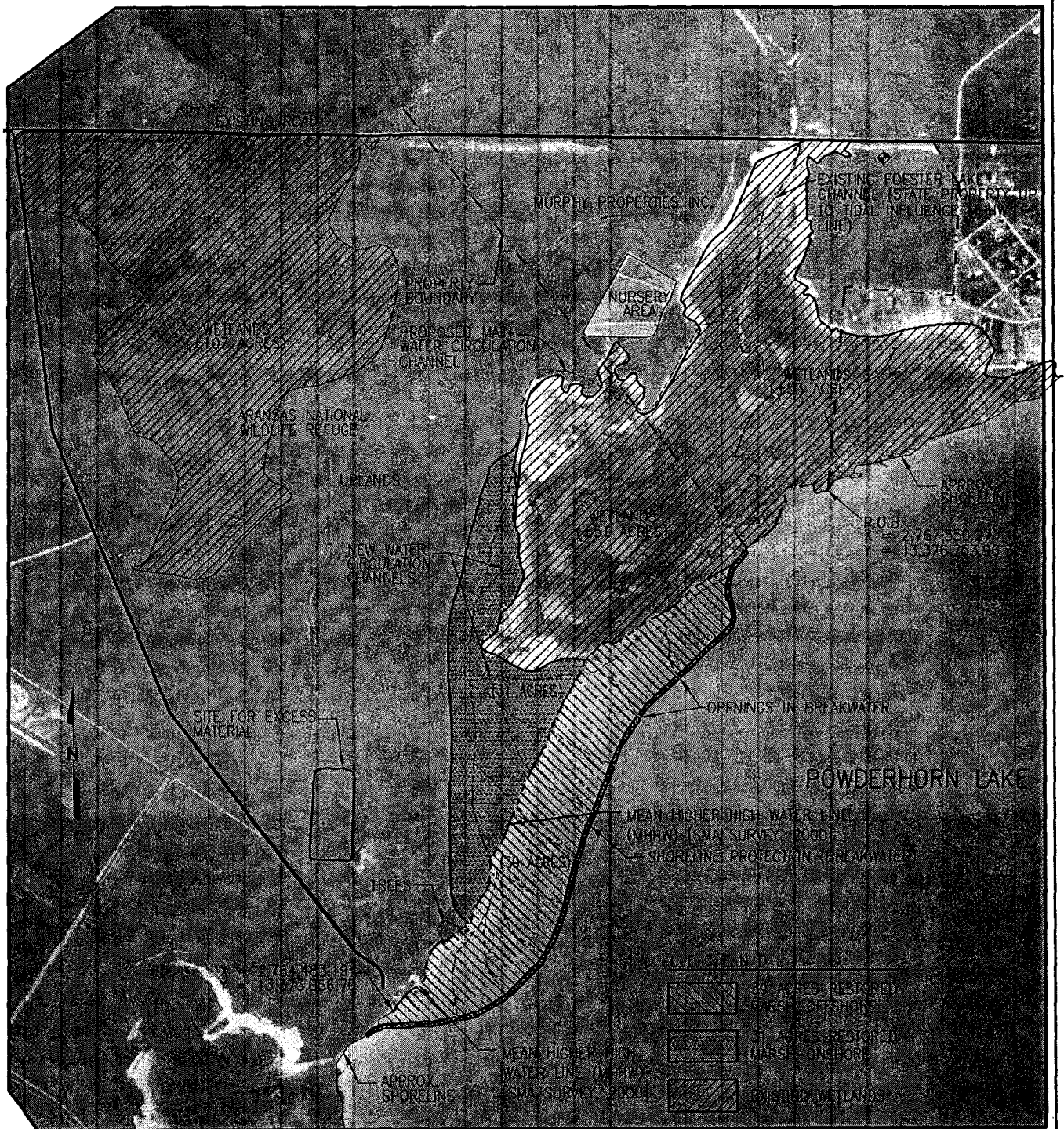
If the data collected during the Phase 2 monitoring event indicate that the Phase 2 Milestone has been met, Alcoa will provide its Phase 2 Milestone Report to the Lead Administrative Trustee for Trustee evaluation. After receiving the report, the Lead Administrative Trustee may establish a date for an inspection by the Trustees, as authorized by Paragraph 49 of the Consent Decree.

The Trustees shall evaluate the report and the results of any inspection they may undertake, and within the later of 60 days after receipt of the Phase 2 Milestone Report or any joint inspection of the Marsh Project Site requested under Paragraph 49 of the Consent Decree, the Lead Administrative Trustee will notify Alcoa whether the Trustees agree that the Phase 2 Milestone has been met.

If the Trustees agree that the Phase 2 Milestone has been met, then the Lead Administrative Trustee shall issue the Certification of Completion of the Marsh Restoration Project in accordance with Paragraph 50 of the Consent Decree. If the Trustees do not agree that the Phase 2 Milestone has been met at the Marsh Restoration Project, Alcoa and the Trustees will meet to discuss the deficiency. Alcoa will continue to monitor until a maximum of seven (7) years after Certification of Completion of Marsh Construction or until the Phase 2 Milestone has been met and the Certification of Completion of Marsh Restoration Project is issued pursuant to Paragraph 50 of the Consent Decree.

USACE Permit No.: _____
Applicant: ALCOA
Date: _____ Sheet _____ of _____

PROPOSED MARSH RESTORATION DETAILS



A horizontal number line with tick marks at 1000, 500, and 0. The segment between 1000 and 500 is shaded black.



SHINER MOSELEY AND ASSOCIATES, INC.
ENGINEERS & CONSULTANTS

555 North Canacabus Street, Suite 1650 Corpus Christi, Texas 78478

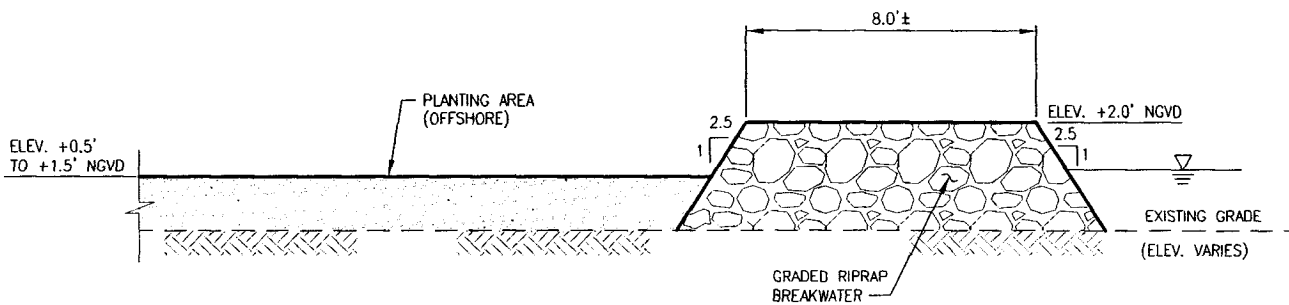
DESCRIPTION/ACTIVITIES: RESTORATION OF MARSH AND OYSTER REEF HABITAT, AND ENHANCEMENT OF RECREATIONAL FISHING OPPORTUNITIES

JOB NO.: 90040

DATE: 11/00

REV. DATE: 06/28/00

Annex 3-A



TYPICAL SECTION – ROCK BREAKWATER

SCALE: N.T.S.

PRELIMINARY

THIS DOCUMENT IS RELEASED FOR THE PURPOSE OF INTERIM REVIEW AND IS NOT INTENDED TO BE USED FOR CONSTRUCTION, BIDDING OR PERMIT PURPOSES.

ENGINEER: DANIEL J. HEILMAN

LICENSE NO.: 86936

DATE: 3/19/03



SHINER MOSELEY AND ASSOCIATES, INC.
ENGINEERS & CONSULTANTS
555 North Carancahua Street, Suite 1650
Corpus Christi, Texas 78478

SMA JOB NO.: 20224

ALCOA

TYPICAL SECTION –
ROCK BREAKWATER

MARSH RESTORATION PROJECT

Annex 3-B



Onshore
Marsh

Powderhorn Lake

Offshore
Marsh

Breakwater

Legend

--- Marsh Section Boundaries

ALCOA will provide coordinates for
boundary line endpoints upon
completion of construction

Annex 3-C - Marsh Section Boundaries
for Plant Survival Determination

File: Conceptual 2003.apr
File Date: February 14, 2003



Exhibit 4

Oyster Reef Implementation Plan

1.0 INTRODUCTION

To compensate for the interim loss of ecological services from natural oyster reef habitat, resulting from releases of hazardous substances at or from the Alcoa Point Comfort/Lavaca Bay Site and the loss of reef habitat due to remedial actions in Lavaca Bay, Alcoa shall construct a minimum of 10.9 acres of oyster reef in Lavaca Bay in the approximate location depicted on Exhibit 1 to the Consent Decree. The constructed reef will be ecologically similar to nearby reefs and will be constructed pursuant to a plan designed to maximize habitat value to provide ecological services important for the continued success of biota in Lavaca Bay. It is anticipated that the ecological services provided by the constructed reef will benefit a wide range of biological resources, including finfish, shrimp, crabs, mussels, oysters and many species of reef dwelling invertebrates.

An area in the southeast portion of Lavaca Bay has been selected as the site for reef construction because this location is within the same bay system and provides an environment suitable for oyster reef growth. The selected construction site is near the pass between Keller Bay and lower Lavaca Bay, adjacent to natural reefs and scattered oyster clusters.

The Trustees have determined that if the constructed reef meets the construction and performance criteria outlined in this plan, there is reasonable assurance that the ecological services needed to offset service losses will be provided over time.

The performance criteria define short-term milestones that, if met, will provide reasonable assurance of project success in the long term. Monitoring provides information necessary to determine whether the project is trending toward these milestones or whether corrective action may be appropriate.

2.0 PROJECT IMPLEMENTATION

2.1 Construction Criteria

Alcoa shall implement the preferred alternative described in the Final Ecological DARP in accordance with the following construction criteria:

- a. Conduct a detailed bathymetric survey prior to construction.
- b. Create a minimum of 10.9 acres of oyster reef by constructing a permanent reef base from rock, shell, or other appropriate material.
- c. Place a layer of geotextile filter fabric under the material used for the core of the reef in areas where soft sediments are found.
- d. The reef will consist of parallel segments that will be constructed perpendicular or diagonal to the tidal currents.
- e. After settling, the top of the reef base shall be on average 12 inches higher than the surrounding bay bottom, with no spot less than 6 inches, to prevent burial by natural sedimentation.

- f. Construct the reef with materials that will provide appropriate attachment surfaces for oysters and other sessile mollusks, *i.e.* limestone, whole oyster shell, clean processed and graded crushed concrete, North Carolina marl, or any other material approved by the Trustees.
- g. Construction of the reef will commence at such time as to allow the reef to be completed in the March through May time frame, so that clean substrate is available during the spawning peak in Lavaca Bay (June).
- h. After construction has been completed, place a permanent elevation marker on the reef to mark +6 feet NGVD.

2.2 Oyster Reef Restoration Work Plan

Alcoa shall develop an Oyster Reef Restoration Work Plan for its internal use. The Work Plan will be provided to the Lead Administrative Trustee for comment by the Trustees. The Work Plan will be used during contractor selection and to coordinate construction activities. The construction schedule may be provided to the Lead Administrative Trustee separately from the remainder of the Work Plan. The Work Plan will contain the following information:

- a. Site Description:
 - i. Hydrology and chemical characteristics of the site
 - ii. General description of the bay bottom at the site
 - iii. General description of fauna utilizing the site
- b. A site location map and detailed plan view showing reef configuration and orientation.
- c. Construction requirements, including reef construction materials and cross-sectional engineering drawings of the reef base and finished reef and the method of determining how bay bottom elevation will be documented.
- d. Construction schedule showing the chronological relationship between construction tasks. The actual start and finish date will be determined by environmental conditions.
- e. Copies of all permits or other authorizations necessary to carry out this Implementation Plan.

The Trustees have previously reviewed the draft Work Plan submitted on April 7, 2003 and found no material inconsistencies with the construction criteria in this Oyster Reef Implementation Plan. The Trustees will also be provided the opportunity to consider Alcoa's final Work Plan. Within 14 days after receipt of the final Work Plan, the Lead Administrative Trustee will provide written notice to Alcoa whether or not the Trustees find that there are material inconsistencies between the Work Plan and the construction criteria in this Oyster Reef Implementation Plan. If any material inconsistencies are identified, or if the Trustees need additional information about details included in the Work Plan to ensure compliance with the construction criteria, the Lead Administrative Trustee will arrange a meeting between Alcoa and

the Trustees to discuss the Work Plan. The Trustees will provide a written statement of their position with respect to any material inconsistencies within 14 days of the meeting.

2.3 Construction Certification

- a. Alcoa shall construct the oyster reef in accordance with the specifications identified in the Oyster Reef Work Plan. Within 21 days after completion of construction, Alcoa will provide notice to the Lead Administrative Trustee that Alcoa has completed construction in accordance with specifications that are consistent with the Oyster Reef Implementation Plan and the Oyster Reef Work Plan.
- b. Alcoa shall conduct its first post-construction monitoring event at any time during the first October-December time period after the oyster reef has settled by 70% ("70% Settling Date"). Alcoa will undertake a detailed geotechnical assessment based on best professional geotechnical testing and engineering practices to determine the 70% Settling Date. The 70% Settling Date will be identified in the Oyster Reef Work Plan or provided separately to the Lead Administrative Trustee.
- c. During the first post-construction monitoring event, a baseline survey will be conducted by a licensed surveyor. The survey will be conducted to determine if areal size and surface elevations specified in this plan and the Oyster Reef Work Plan have been achieved. When the baseline survey and monitoring event are complete, Alcoa will prepare a Post-Construction Report. The report will present the results of the monitoring event and survey, including;
 - i. Summary of construction activities
 - ii. Baseline survey showing reef area, configuration, elevation
 - iii. Estimated depths of overlying water
 - iv. Information to establish that the construction criteria have been met.
- d. Within 60 days after the completion of the first post-construction monitoring event, Alcoa will provide its post-construction report to the Lead Administrative Trustee for Trustee evaluation. Within 30 days after receiving the report, the Lead Administrative Trustee may establish a date for a construction inspection by the Trustees, as authorized by Paragraph 46 of the Consent Decree.
- e. The Trustees shall evaluate the report and the results of any inspection they may undertake, and if the Trustees agree that the construction criteria have been met, the Lead Administrative Trustee shall issue a written notice on behalf of all Trustees certifying completion of construction of the Oyster Reef Restoration Project in accordance with Paragraph 47 of the Consent Decree ("Certification of Completion of Oyster Reef Construction") within the later of 60 days after receipt of the Post-Construction Report or any joint inspection of the Oyster Reef Project Site requested under Paragraph 46 of the Consent Decree. If the Trustees do not agree that the construction criteria have been met, the Lead Administrative Trustee will arrange a meeting between the Trustees and Alcoa to discuss

whether the construction criteria have been met and whether any additional steps are needed to meet the construction criteria.

- f. Alcoa shall establish that the oyster reef meets the construction criteria required to obtain a Certification of Completion of Construction by July 1, 2007.

3.0 PERFORMANCE MONITORING

Performance criteria define short-term milestones that, if met, will provide reasonable assurance of project success in the long term. Monitoring provides information necessary to determine whether the project is trending toward these milestones or whether corrective action may be appropriate.

3.1 Performance Criteria

Performance criteria for the Oyster Reef Restoration Project are:

- a. The presence of a suitable solid reef base that has a surface elevation that is on average 12 inches higher than the surrounding bay bottom. Due to the slight unevenness of the bay bottom, and the shape of the reef construction material, reef surface elevation will be an arithmetic average of 12 inches above the surrounding bay bottom, but no individual spot will be less than 6 inches above bay bottom.
- b. The reef may consist of multiple reef segments constructed at the same site, but the combined areal size of the segments, not counting open water between segments, will be 10.9 acres.
- c. Evidence of sessile mollusk colonization on the constructed reef within 30 months post-construction.

Compliance with the design-based performance criteria (i.e., items a and b above) shall be documented during each monitoring event that will occur during the October-December time period approximately 18 and 30 months after construction has been completed. Compliance with the ecological performance criterion (i.e. item c, above) may be determined during any of the scheduled monitoring events or other inspections approved by the Lead Administrative Trustee.

3.2 Monitoring Events

Reef monitoring will be conducted at scheduled intervals following reef construction. The schedule and objectives of post-construction monitoring events are shown in Table 3.2.1.

Table 3.2.1 Post-construction Monitoring Events

Monitoring Schedule	Characteristics to Evaluate	Methods
October-December after 70% Settling Date	Evidence of colonization of sessile mollusks	Photo documentation
	Average reef surface elevation and areal extent	Baseline survey by licensed surveyor
October-December approximately 18 months following certification of completion of construction; Report due February 28 th following 18-month monitoring	Evidence of colonization of sessile mollusks (only if not documented during prior monitoring event)	Photo documentation
	Average reef surface elevation	Confirmation survey by licensed surveyor
October-December approximately 30 months following certification of completion of construction; Report due February 28 th following 30-month monitoring	Evidence of colonization of sessile mollusks (only if not documented during prior monitoring event)	Photo documentation

4.0 CORRECTIVE ACTIONS

4.1 Minor Corrective Actions

No routine maintenance of the reef is expected or required. Therefore, minor corrective actions are not anticipated.

4.2 Major Corrective Actions

Alcoa will obtain Trustee approval from the Lead Administrative Trustee prior to performing any major corrective action. Major corrective actions may include:

- a. Mobilization of heavy equipment for reworking existing base material to provide gaps, passes, or deflectors designed to improve circulation and/or reduce sedimentation.
- b. Reconstruction or augmentation of reef base to address excessive subsidence or settlement.
- c. Mechanical manipulation of the upper reef surface to increase surface attachment area if the spat set is not successful and is negatively colonized by algae.

Major corrective actions will not include construction of a new reef at a different location; rather major corrective actions that may be required are limited to corrections/ amendments/

modifications of the existing reef to improve circulation, reduce sedimentation, and/or reduce fouling, as described herein.

4.3 Triggers for Consideration of Major Corrective Actions

The need for major corrective action may be triggered by excessive subsidence or settling of the reef base as measured by the baseline survey or the confirmation survey. Major corrective action may be required by the Trustees if average reef surface elevation measured during either survey indicates the reef does not meet elevation or areal size specified by the design-based performance criteria.

The need for major corrective action may also be required if no evidence of colonization of sessile mollusks is detected in any scheduled post-construction monitoring event. The Trustees have the option of requiring one additional monitoring event if the ecological performance criterion has not been met by the time of the 30 Month Post-construction Monitoring Event. Under no circumstances will monitoring continue for more than four (4) years following Certification of Completion of Construction.

4.4 Limitations on Major Corrective Actions

The performance of one or more major corrective actions is subject to the activity-based limitations described herein. After Alcoa has submitted a post-construction report establishing that construction has been completed in accordance with the construction criteria, major corrective actions shall be limited to the following described activities and in no event shall Alcoa be required to perform major corrective actions, which either individually or in the aggregate, exceed the applicable limitation for each such activity as set forth in this Section 4.4:

- a. Mobilization of heavy equipment for reworking existing base material to improve circulation and/or reduce sedimentation is limited to one event.
- b. Reconstruction or augmentation of reef base to address excessive subsidence or settling is limited to one event.
- c. Mechanical manipulation of the upper reef surface to increase surface attachment area if the spat set is not successful and attachment surfaces are negatively colonized by algae with a three-event limit.

5.0 RECORD KEEPING AND REPORTING

The post-construction report shall be prepared and submitted to the Lead Administrative Trustee as required in Paragraph 2.2 and Table 3.2.1 above.

6.0 FINAL CERTIFICATION

When it determines that the performance criteria specified in Paragraph 3.1 above have been met, Alcoa will provide a written basis for its determination to the Lead Administrative Trustee. The Trustees will review the written explanation, and if they agree that the criteria have been met, the Lead Administrative Trustee will certify that Alcoa has completed the Oyster Reef Restoration Project in accordance with Paragraph 50 of the Consent Decree. If the Trustees do

not agree that the criteria have been met, the Lead Administrative Trustee will arrange a meeting between Alcoa and the Trustees to discuss whether additional steps need to be taken to meet the criteria.

Exhibit 5

Implementation Plan for Recreational Projects

1.0 INTRODUCTION

To compensate for the interim recreational fishing service losses resulting from releases of hazardous substances at or from the Alcoa Point Comfort/Lavaca Bay Site, Alcoa shall construct each of the Recreational Projects described in this Implementation Plan.

The Trustees have determined that if the constructed Recreational Projects meet the construction criteria outlined in this Implementation Plan, there is reasonable assurance that the recreational fishing services needed to offset service losses will be provided over time.

Use surveys will be conducted to develop information about the utilization of these projects. However, these surveys are for information purposes only and no corrective action shall be required of Alcoa if such goals are not met.

2.0 PROJECT IMPLEMENTATION

The Recreational Projects consist of improvements to be constructed at the Six Mile Park, Point Comfort Park, Bayfront Peninsula, Lighthouse Beach, and Magnolia Beach, as follows:

- a. Six Mile Park. At the Project Site identified as "Six Mile Park" on Exhibit 1 to the Consent Decree, Alcoa shall construct a new fishing pier.
- b. Six Mile Park. At the Project Site identified as "Six Mile Park" on Exhibit 1 to the Consent Decree, Alcoa shall replace the existing auxiliary boat ramp, construct a new timber dock, stabilize the bulkhead and shoreline areas at the ramp and dredge the channel to and from the ramp to provide boating access to Lavaca Bay.
- c. Point Comfort Park. At the Project Site identified as "Point Comfort Park" on Exhibit 1 to the Consent Decree, Alcoa shall construct a new fishing pier, a parking area for a minimum of ten vehicles, and a walkway from the parking area to the new pier.
- d. Bayfront Peninsula. At the Project Site identified as the "Bayfront Peninsula" on Exhibit 1 to the Consent Decree, Alcoa shall construct a new fishing pier.
- e. Lighthouse Beach. At the Project Site identified as "Lighthouse Beach" on Exhibit 1 to the Consent Decree, Alcoa shall construct a new timber dock, remove the shoals in the channel to and from the existing boat ramp, excavate the confined dredge disposal facility at this location, and repair the disposal facility's decant structure.
- f. Magnolia Beach. At the Project Site identified as "Magnolia Beach" on Exhibit 1 to the Consent Decree, Alcoa shall widen and extend the existing jetty east of the boat ramp.

2.1 Construction Criteria

Each pier and dock to be constructed as part of a Recreational Project will be designed consistent with current engineering standards for piers and docks on the Texas Gulf coast to achieve a 30-year life span. Additional plans and specifications for the piers, docks and other improvements to be constructed as part of the Recreational Projects are set forth on Annexes 5-A through 5-E attached hereto.

2.2 Recreational Projects Work Plan

Alcoa shall develop a Recreational Projects Work Plan for its internal use. The Work Plan will be provided to the Lead Administrative Trustee for comment by the Trustees. The Work Plan will be used during contractor selection and to coordinate construction activities. The construction schedule may be provided to the Lead Administrative Trustee separately from the remainder of the Work Plan. The Work Plan will contain the following information:

- a. Site description.
- b. A site location map and detailed plan view showing the configuration of each project.
- c. Construction requirements, including building plans and cross-sectional engineering drawings for the recreational projects.
- d. Construction schedule providing requirements for beginning and end dates for construction.
- e. Discussion of appropriate permits for construction required by this Implementation Plan.

The Trustees have previously reviewed the draft Work Plan submitted on April 25, 2003 and found no material inconsistencies with the construction criteria in this Recreational Projects Implementation Plan. The Trustees also will be provided with the opportunity to consider Alcoa's final Work Plan. Within 14 days after receipt of the final Work Plan, the Lead Administrative Trustee will provide written notice to Alcoa whether or not the Trustees find that there are material inconsistencies between the Work Plan and the construction criteria in this Recreational Projects Implementation Plan. If any material inconsistencies are identified, or if the Trustees need additional information about details included in the Work Plan to ensure compliance with the construction criteria, the Lead Administrative Trustee will arrange a meeting between Alcoa and the Trustees to discuss the Work Plan. The Trustees will provide a written statement of their position with respect to any material inconsistencies within 14 days of the meeting.

2.3 Construction Certification

Within sixty (60) days following the completion of construction of each of the foregoing Recreation Projects, Alcoa shall prepare and submit to the Lead Administrative Trustee a post-construction report as contemplated by Paragraph 46 of the Consent Decree. The post-construction report shall include the following: (1) A statement signed and sealed by a registered Texas Engineer confirming that the Recreational Project was built in accordance with the plans and specifications included in this Implementation Plan; (2) An executed agreement between Alcoa and the local governmental entity that owns and/or manages the Project Site, or with such other entity approved by the Lead Administrative Trustee, that provides for a) the ownership and/or management of the Recreational Project by that entity following construction; b) free public access to the Recreational Project for at least 15 years; c) future access to the Project Site for Alcoa to conduct the use surveys contemplated by this Implementation Plan, and d) funding sufficient, in the judgment of Alcoa and the owner/manager of the Project Site, to conduct routine maintenance activities and storm, hurricane and other casualty loss insurance policies for the project for 15 years (collectively, the "Post-Construction Report").

The Trustees shall evaluate each Post-Construction Report and the results of any inspection they may undertake, and if the Trustees agree that the construction criteria have been met, the Lead Administrative Trustee shall issue a written notice on behalf of all Trustees certifying completion of construction of the particular Recreational Project in accordance with Paragraph 47 of the Consent Decree within the later of 60 days after receipt of the Post-Construction Report or any joint inspection of the particular Project Site requested under Paragraph 46 of the Consent Decree. If the Trustees do not agree that the construction criteria have been met, the Lead Administrative Trustee will arrange a meeting between the Trustees and Alcoa to discuss whether additional steps need to be taken to meet the construction criteria.

2.4 Construction Completion

Alcoa shall establish that each Recreational Project meets the construction criteria required to obtain a Certification of Completion of Construction by July 1, 2006.

3.0 USE SURVEYS

Following completion of construction, Alcoa shall survey the use of the Recreational Projects for which usage goals have been established semiannually, once in the spring and once in the fall, for a maximum of three (3) years. The conduct of the use surveys is for informational purposes only and no corrective action shall be required of Alcoa if such goals are not met. Each use survey event shall include the average of a weekend day and weekday count of the number of individual trips at each site. If the usage goals are met or exceeded in two consecutive events or in two consecutive years (where participation levels are averaged within a year) at a site, no further use surveys are required for that site. In no event shall Alcoa be required to conduct use surveys for more than three (3) years following completion of construction of any Recreational Project.

During the survey events, a count of the number of anglers visiting each pier throughout the course of the day and the number of persons using each boat ramp throughout the course of the day will be conducted.

The minimum usage goals for early discontinuance of use surveys is as follows:¹

- 16 individual trips per day for the pier at Six Mile Park
- 16 individual trips per day for the pier at the Port Lavaca Bayfront
- 8 individual trips per day for the pier at Point Comfort
- 16 individual trips per day for the boat ramp at Lighthouse Beach
- 11 individual trips per day for the boat ramp at Six Mile Park

3.1 Conducting the Surveys

Alcoa will select the days during the specified seasons when the use survey will be conducted. If severe weather is predicted for the selected day, the planned count will be postponed. On the

¹ There is no usage goal for Magnolia Beach.

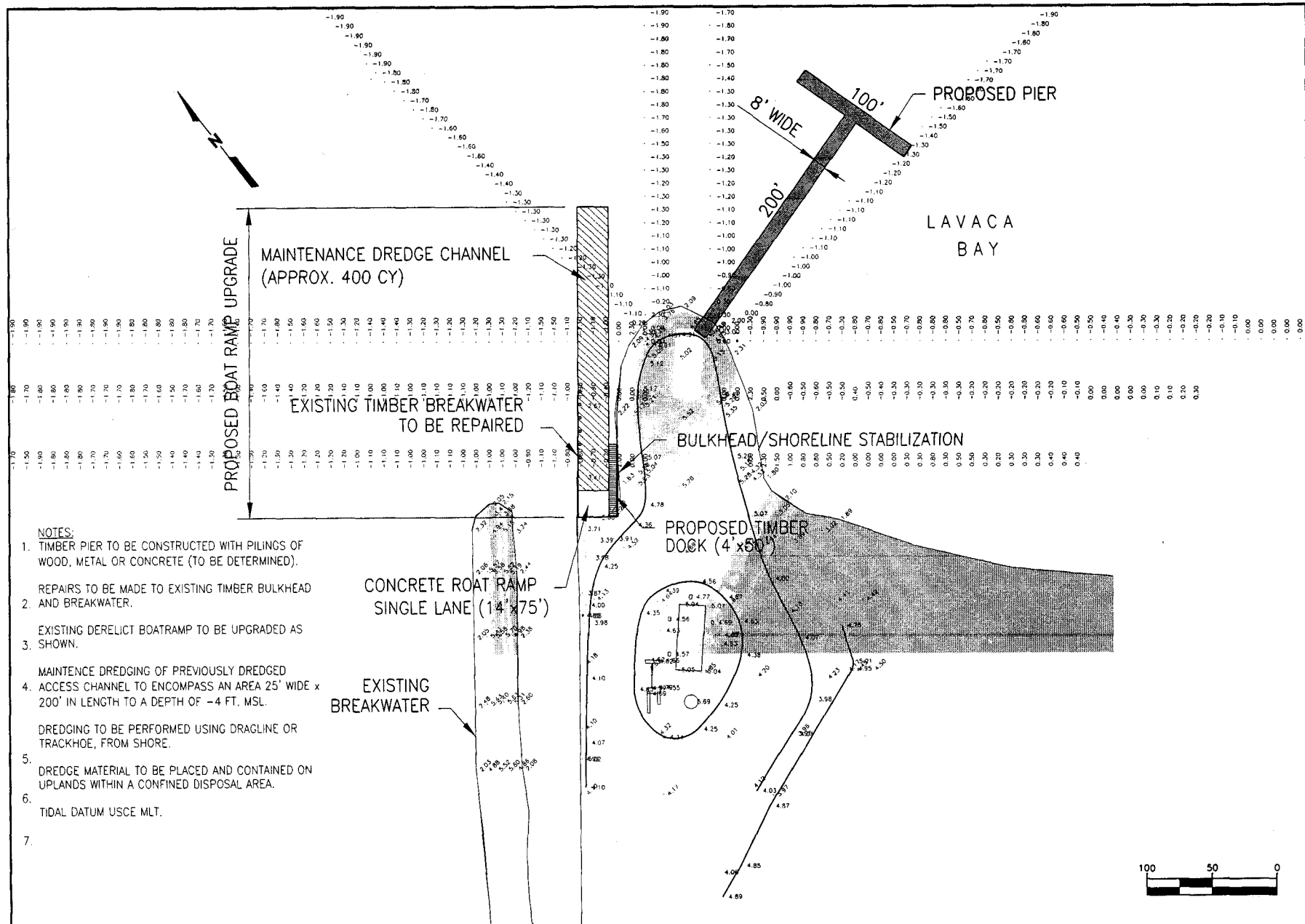
selected days, the Alcoa representative will arrive at the designated site at 5 am. The Alcoa representative will use a tally sheet or hand-held counter to keep track of all adult anglers (16 years and older) entering the site. For the boat ramp sites, counting will end at 9 pm, or when the count reaches twice the usage goals, whichever occurs sooner. For the fishing piers, counting will end at 12 am, or when the count reaches twice the usage goals, whichever occurs sooner.

3.2 Reporting Requirements

The data collected from each use survey event will be included in a letter report and submitted to the Lead Administrative Trustee within 60 days of each survey event, provided that any letter report submitted following two survey events in a calendar year shall include an annual average count.

4.0 FINAL CERTIFICATION OF PROJECT COMPLETION

When Alcoa has completed all use surveys required under this Implementation Plan for all Recreational Projects, Alcoa will notify the Lead Administrative Trustee in writing. The Lead Administrative Trustee will certify Alcoa's completion of the Recreational Projects in accordance with Paragraph 50 of the Consent Decree.



SHINER MOSELEY AND ASSOCIATES, INC.
ENGINEERS & CONSULTANTS

DESCRIPTION/ACTIVITIES: PROPOSED FISHING PIER AND BOAT RAMP UPGRADE AT SIX MILE PARK

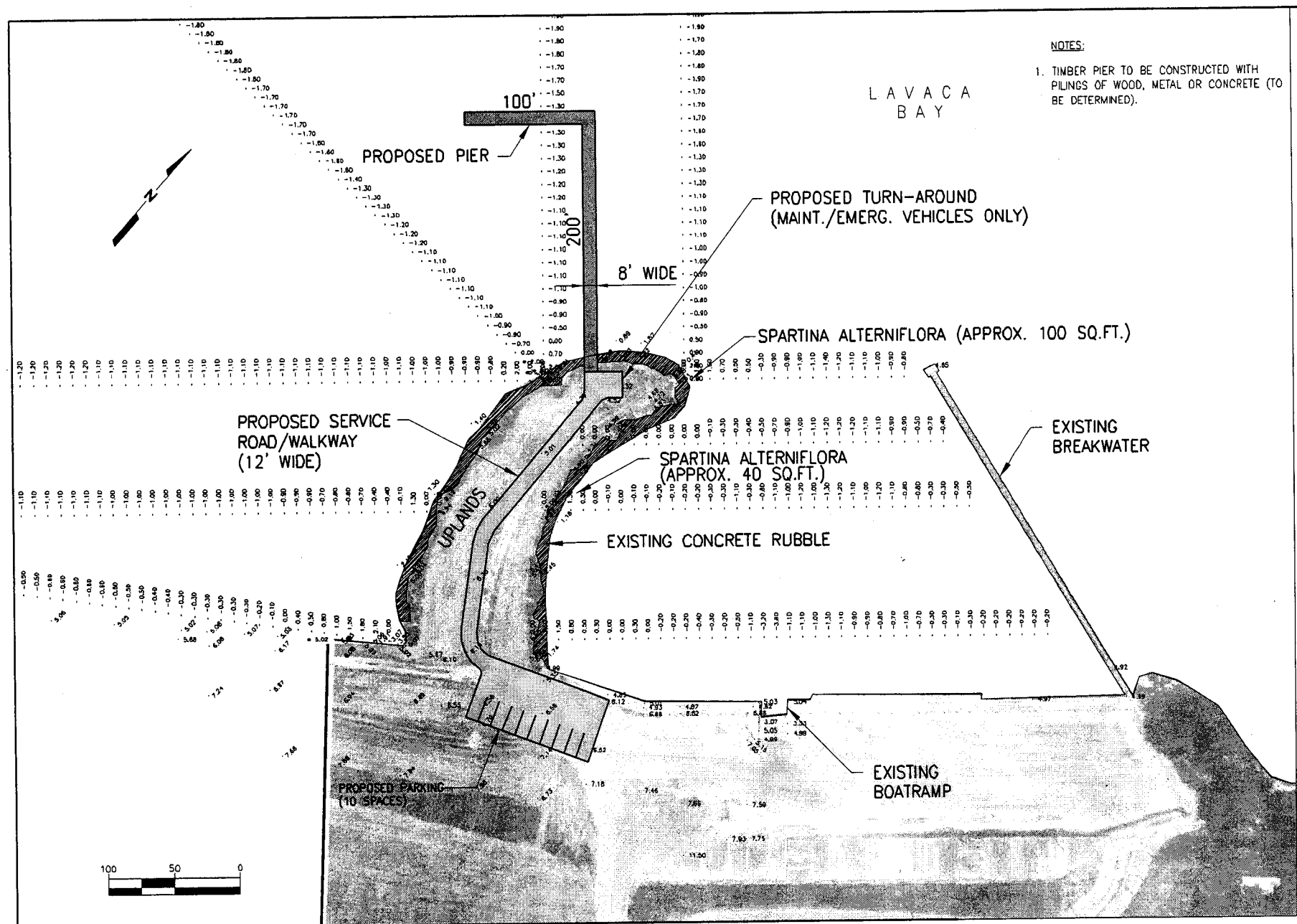
555 North Carancahua Street, Suite 1650 Corpus Christi, Texas 78478

JOB NO.: 90118

DATE: 04/05/00

REV. DATE: 06/28/00

Annex 5-A



SHINER MOSELEY AND ASSOCIATES, INC.
ENGINEERS & CONSULTANTS

555 North Carancahan Street, Suite 1650 Corpus Christi, Texas 78478

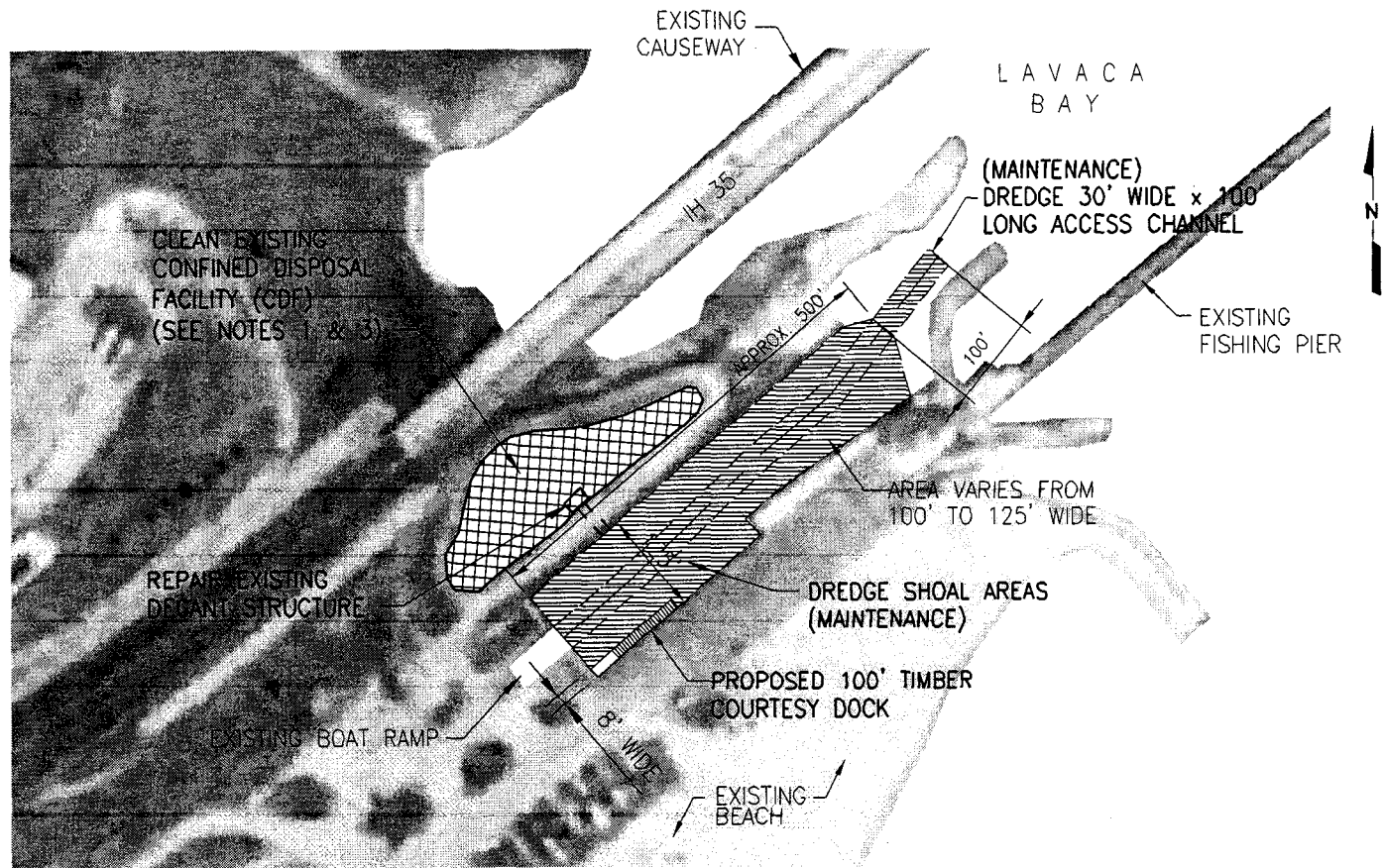
DESCRIPTION/ACTIVITIES: PROPOSED FISHING PIER AND PARKING AT POINT COMFORT

JOB NO.: 90118

DATE: 04/05/00

REV. DATE: 06/28/00

Annex 5-B



NOTES:

1. EXCAVATE AND DISPOSE OF APPROXIMATELY 5,000 CY OF PREVIOUSLY DREDGED MATERIAL FROM CDF PRIOR TO DREDGING.
2. MAINTENANCE DREDGE APPROXIMATELY 5,000 CY (CHANNEL & SHOAL) TO A DEPTH OF APPROX. -5 FT. MSL.
3. DREDGE MATERIAL TO BE PLACED AND CONTAINED ON ADJACENT UPLANDS WITHIN EXISTING DISPOSAL AREA.
4. UPON SUFFICIENT DRYING, EXCAVATE AND DISPOSE OF APPROXIMATELY 5,000 CY OF NEW DREDGED MATERIAL FROM CDF.



SHINER MOSELEY AND ASSOCIATES, INC.
ENGINEERS & CONSULTANTS

555 North Carancahua Street, Suite 1650 Corpus Christi, Texas 78478

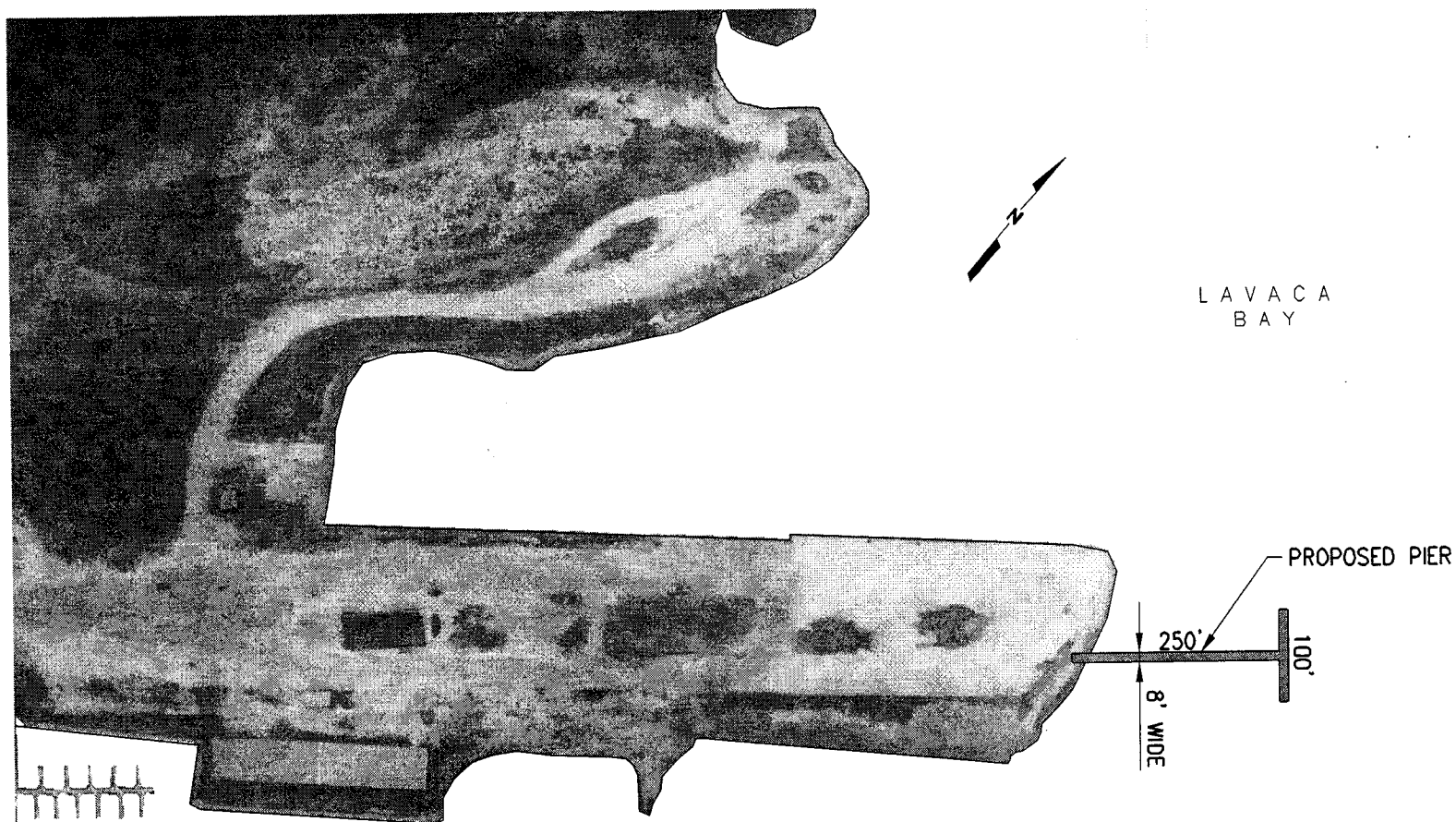
DESCRIPTION/ACTIVITIES: PROPOSED BOAT RAMP UPGRADE AT LIGHTHOUSE BEACH

JOB NO.: 90118

DATE: 04/05/00

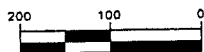
REV. DATE: 06/28/00

Annex 5-C



NOTES:

1. TIMBER PIER TO BE CONSTRUCTED WITH PILINGS OF WOOD, METAL OR CONCRETE (TO BE DETERMINED)
2. WATER DEPTHS WITHIN PROJECT AREA APPROXIMATELY 4 FT.



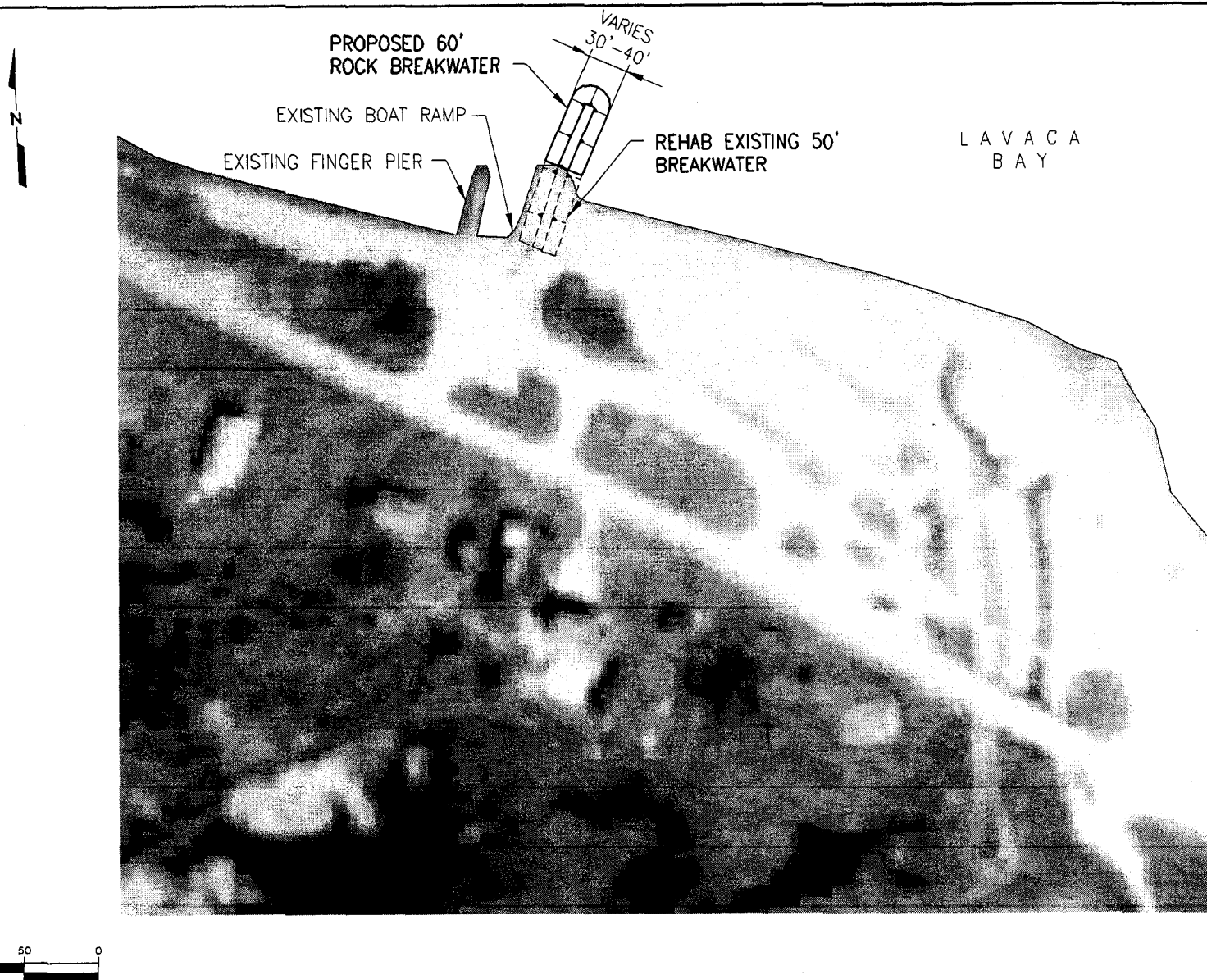
SHINER MOSELEY AND ASSOCIATES, INC.
ENGINEERS & CONSULTANTS

555 North Carancahua Street, Suite 1650 Corpus Christi, Texas 78478

DESCRIPTION/ACTIVITIES: PROPOSED FISHING PIER AT BAYFRONT

JOB NO.: 90118 DATE: 04/05/00 REV. DATE: 06/28/00

Annex 5-D



SHINER MOSELEY AND ASSOCIATES, INC.
ENGINEERS & CONSULTANTS

555 North Carancahua Street, Suite 1650 Corpus Christi, Texas 78478

DESCRIPTION/ACTIVITIES: PROPOSED BOAT RAMP UPGRADE AT MAGNOLIA BEACH

JOB NO.: 90118

DATE: 04/05/00

REV. DATE: 06/28/00

Annex 5-E

Exhibit 6

DOI/FWS Special Use Permit (for Marsh Project Implementation)



UNITED STATES DEPARTMENT OF THE
INTERIOR
FISH AND WILDLIFE SERVICE

Aransas National Wildlife Refuge

SPECIAL USE PERMIT

Station No. to be Credited

21530

Permit Number

04-046

Date

5-24-2004

Period of Use (inclusive)

From 9-8/1/2004

To 9-8/1/2014

Permittee Name

Alcoa, Inc., (Ron Weddell), Remediation Manager

Permittee Address

State Highway 35
P.O. Box 101, Building 505
Point Comfort, TX 77978
Phone: 361-987-6445

Purpose (specify in detail privilege requested, or units of products involved)

To permit Alcoa, Inc and their designated contractor(s) access to the Myrtle Foester Whitmire Unit of Aransas National Wildlife Refuge located in Calhoun County near the town of Indianola, Texas.

The purpose for access is to construct an intertidal marsh amounting to at least 69.3 acres adjacent to and on the Refuge along the north shore of Powderhorn Lake. Alcoa's contractor will be permitted to access the Refuge for the purpose of construction. Upon completion of construction Alcoa's contract biologist will have access to the Unit to conduct monitoring to determine if Milestones were met as specified in the Consent Decree

Description (specify unit numbers; metes and bounds, or other recognizable designations)

Access will be permitted along the main roads as designated in the attached map. A wetland will be constructed that consists of at least 69.3 acres with approximately 30.3 acres onshore, 39 acres offshore, and a 4,900 breakwater approximately 0.5 feet above average high water.

Amount of fee _____ if not a fixed payment, specify rate and unit of charge: _____

☒ Payment Exempt -Justification: 5 RM 17.9 C (5)

☐ Full Payment

☐ Partial Payment -Balance of payments to be made as follows:

Record of Payments

Special Conditions

See attached Special Conditions for permit number 04-046

This permit is issued by the U.S. Fish and Wildlife Service and accepted by the undersigned, subject to the terms, covenants, obligations, and reservations, expressed or implied herein, and to the conditions and requirements appearing on the reverse side.

Permittee Signature

Ronald W Weddell

Issuing Officer Signature and Title

Tracy Little / Refuge Manager

General Conditions

1. Payments

All payments shall be made on or before the due date to the local representative of the U.S. Fish and Wildlife Service by a postal money order or check made payable to the U.S. Fish and Wildlife Service.

2. Use limitations

The permittee's use of the described premises is limited to the purposes herein specified; does not unless provided for in this permit allow him/her to restrict other authorized entry on to his/her area; and permits to the Service to carry on whatever activities are necessary for (1) protection and maintenance of the premises and adjacent lands administered by the Service and (2) the management of wildlife and fish using the premises and other

3. Damages

The United States shall not be responsible for any loss or damages to property including but not limited to growing crops, animals, and machinery; or injury to the permittee, or his/her relatives, or to the officers, agents, employees, or any others who are on the premises from instructions or by the sufferance of the permittee or his/her associates; or for damages or interference caused by wildlife or employees or representatives of the Government carrying out their official responsibilities. The permittee agrees to save the United States or any of its agencies harmless from any and all claims for damages or losses that may arise or be incident to the flooding of the premises resulting from any associated Government river and harbor, flood control, reclamation, or Tennessee Valley Authority activity.

4. Operating Rules and Laws

The permittee shall keep the premises in a neat and orderly condition at all times, and shall comply with all municipal, county, and State laws applicable to the operations under the permit as well as all Federal laws, rules, and regulations governing National Wildlife Refuges and the area described in this permit. The permittee shall comply with all instructions applicable to this permit issued by the refuge officer in charge. The permittee shall take all reasonable precautions to prevent the escape of fires and to suppress fires and shall render all reasonable assistance in the suppression of refuge fires.

5. Responsibility of Permittee

The permittee, by operating on the premises, shall be considered to have accepted these premises with all the facilities, fixtures, or improvements in their existing condition as of the date of this permit. At the end of the period specified or upon earlier termination, the permittee shall give up the premises in as good order and condition as when received except for reasonable wear, tear, or damage occurring without fault or negligence. The permittee will fully repay the Service for any and all damage directly or indirectly resulting from negligence or failure on his/her part, or the part of anyone of his/her associates, to use reasonable care.

6. Revocation Policy

This permit may be revoked by the Regional Director of the Service without notice for noncompliance with the terms hereof or for violation of general and/or specific laws or regulations governing National Wildlife Refuges or for nonuse. It is at all times subject to discretionary revocation by the Director of the Service. Upon such revocation the Service, by and through any authorized representative, may take possession of the said premises for its own and sole use, or may enter and possess the premises as the agent of the permittee and for his/her account.

7. Compliance

Failure of the Service to insist upon a strict compliance with any of this permit's terms, conditions, and requirements shall not constitute a waiver or be considered as a giving up of the Service's right to thereafter enforce any of the permit's terms, conditions, or requirements.

8. Termination Policy

At the termination of this permit, the permittee shall immediately give up possession to the Service representative, reserving, however, the rights specified in paragraph 9. If he/she fails to do so, he/she will pay the Government, as liquidated damages, an amount double the rate specified in this permit for the entire time possession is withheld. Upon yielding possession, the permittee will still be allowed the reenter as needed to remove his/her property as stated in paragraph 9. The acceptance of any fee for liquidated damages or any other act of administration relating to the continued tenancy is not to be considered as an affirmation of the permittees action nor shall it operate as a waiver of the Government's rights to terminate or cancel the permit for the breach of any specified condition or requirement.

9. Removal of Permittee's Property

Upon the expiration or termination of this permit, if all rental charges and/or damage claims due to the Government have been paid, the permittee may within a reasonable period as stated in the permit or as determined by the refuge officer in charge but not to exceed 60 days, remove all structures, machinery, and/or other equipment, etc., from the premises for which he/she is responsible. Within the period the permittee must also remove any other of his/her property including his/her acknowledged share of products or crops grown, cut, harvested, stored, or stacked on the premises. Upon failure to remove any of the above items within the aforesaid period, they shall become the property of the United States.

10. Transfer of Privileges

This permit is not transferable, and no privileges herein mentioned may be sublet or made available to any person or interest not mentioned in this permit. No interest hereunder may accrue though lien or be transferred to a third party without the approval of the Regional Director of the U.S. Fish and Wildlife Service and the permit shall not be used for speculative purposes.

11. Conditions of Permit not Fulfilled

If the permittee fails to fulfill any of the conditions and requirements set forth herein, all money paid under this permit shall be retained by the Government to be used to satisfy as much of the permittee's obligation as possible.

12. Official Barred from Participating

No Member of Congress or Residential Commissioner shall participate in any part of this contract or to any benefit that may arise from it, but this provision shall not pertain to this contract if made with a corporation for its general benefit.

13. Nondiscrimination in Employment

The permittee agrees to be bound by the equal opportunity clause of Executive Order 11246, as amended.

Privacy Act Statement—Special Use Permit

NOTICE: In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, please be advised that:

1. The issuance of a permit and collection of fees on lands of the National Wildlife Refuge System is authorized by the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd - 668ee), and the Refuge Recreation Act, (16 U.S.C. 460k-3); implemented by regulations in 50 CFR 25-36.
2. Information collected in issuing a permit may be used to evaluate and conclude the eligibility of, or merely document, permit applicants.
3. Routine use disclosures may also be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of the individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to provide addresses obtained from the Internal Revenue Service to debt collection agencies for purposes of locating a debtor to collect or compromise a Federal claim against the debtor, or to consumer reporting agencies to prepare a commercial credit report for use by the Department (48FR 54716; December 6, 1983).
4. Any information requested is required to receive this permit. Failure to answer questions may jeopardize the eligibility of individuals to receive permits.

Special Use Permit 04-046
Alcoa, Inc., (Ron Weddell), Remediation Manager

Special Conditions:

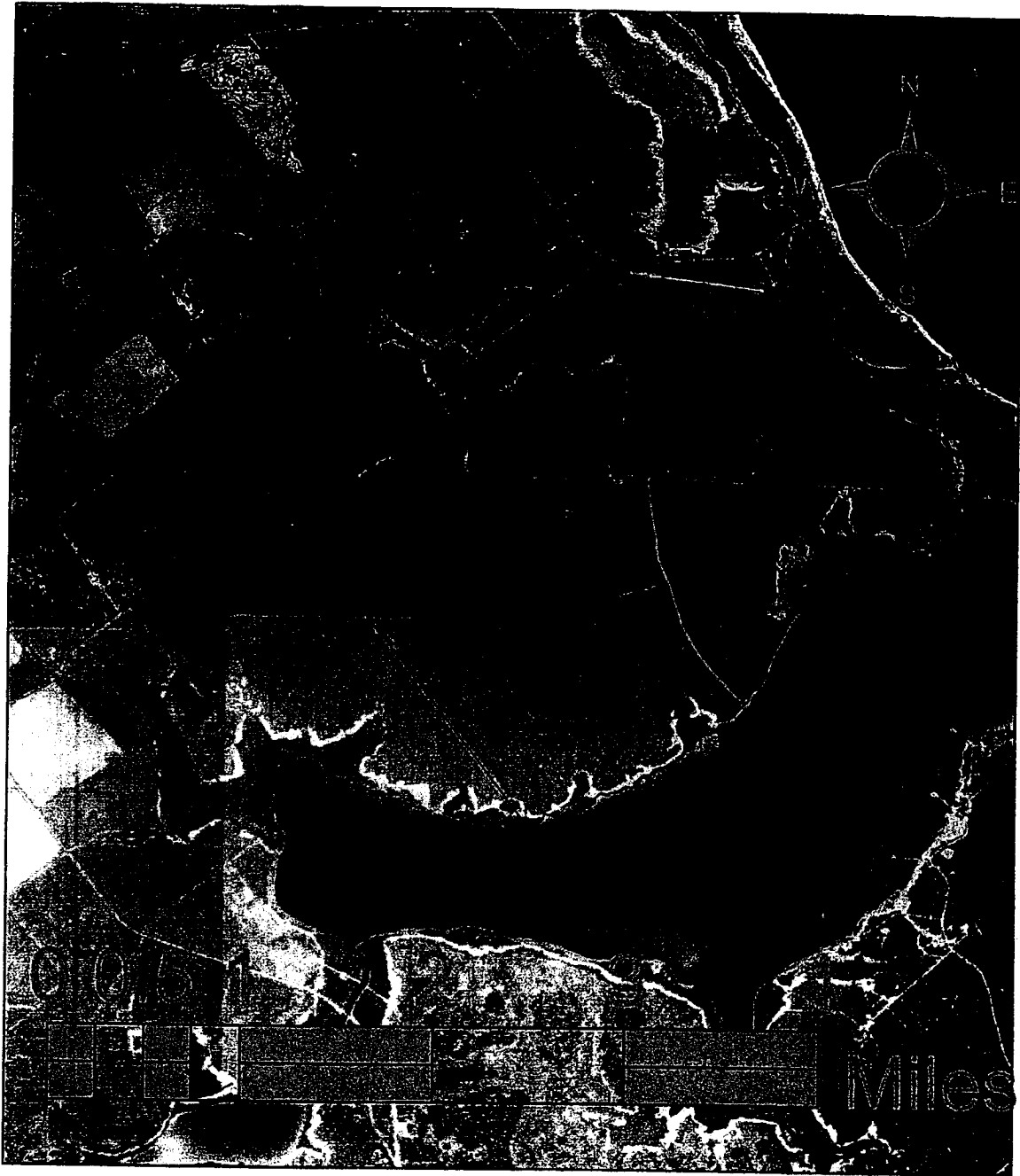
1. Alcoa and or Contractor must contact the Refuge Manager prior to beginning work to obtain current combination to the gate. The entrance gate is on a combination lock and is changed routinely.
2. Existing wetland adjacent to and east of the proposed wetland project should not be damaged. Contractor should not move any material from the existing wetland site.
3. Kenneth Rice, Fish and Wildlife Biologist with the Service in Corpus Christi, Texas will serve as the on site inspector during construction operations. Any significant disturbance to mottled ducks, whooping cranes, or other species may temporarily stop construction operations.
4. Alcoa must have all necessary state and federal permits prior to beginning work. (404 permit Corps of Engineers), etc.
5. Construction and monitoring will follow the Marsh Implementation Plan dated *June 18, 2004* *AWW* *T.L.* ~~November 14, 2003~~, or any subsequent modification approved by Alcoa and the natural resource trustees, or the court.
6. The United States Fish and Wildlife Service (FWS) does not assume any liability by entering into this Special Use Permit. Alcoa, its successors and assigns shall indemnify, save and hold harmless the FWS and its employees, agents, contractors, subcontractors, and representatives for or from any and all claims or causes of action of any kind including personal liability, losses or damage to machinery, attorney fees, and costs arising from, or on account of, negligence or other tortious acts or omissions of Alcoa, its officers, directors, employees, agents, contractors, subcontractors, and any persons under its control, in carrying out activities authorized by this Special Use Permit. In carrying out permitted activities authorized by this Special Use Permit neither the United States of America nor the United States Fish and Wildlife Service shall be held out as a party to any contract entered into by or on behalf of Alcoa its successors or assigns or contractors or subcontractors.

7. The United States Fish and Wildlife Service as owner and occupant of the Myrtle Foester Whitmire Unit of the Aransas National Wildlife Refuge reserves the unfettered right without prior notice to Alcoa, its successors, assigns, agents, employees, officers, directors, contractors, or subcontractors, to be present on, around or about the property which is the subject of this Special Use Permit in order to inspect, observe, patrol, or otherwise carry out the mission of the Aransas National Wildlife Refuge.

Permittee Signature _____

Refuge Managers Signature

Alcoa Access for Marsh Project

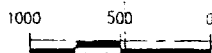


Legend

 Refuge Boundary

USACE Permit No. _____
Applicant: ALCOA
Date: _____ Sheet _____ of _____

PROPOSED MARSH RESTORATION DETAILS



SHINER MOSELEY AND ASSOCIATES, INC.
ENGINEERS & CONSULTANTS

555 North Casanueva Street, Suite 11650 Corpus Christi, Texas 78478

DESCRIPTION/ACTIVITIES: RESTORATION OF MARSH AND OYSTER REEF HABITAT, AND ENHANCEMENT OF RECREATIONAL FISHING OPPORTUNITIES

JOB NO.: 90040

DATE: 11/00

REV. DATE: 06/28/00

Annex 3-A

Exhibit 7

TGLO Coastal Surface Lease (for Marsh Project Implementation)

The State of Texas



Austin, Texas

COASTAL SURFACE LEASE NO. SL20040025

STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

§

COUNTY OF CALHOUN

§

This Coastal Surface Lease SL20040025, ("Lease"), is granted by virtue of the authority granted in Section 51.121, et seq., TEX. NAT. RES. CODE ANN. 31 TEX. ADMIN. CODE, Chapter 13, Land Resources, and all other applicable statutes and rules, as the same may be amended from time to time, and is subject to all applicable regulations promulgated from time to time.

ARTICLE I. PARTIES

1.01. In consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the STATE OF TEXAS, acting by and through the Commissioner of the General Land Office, on behalf of the Permanent School Fund of the State of Texas (the "State"), hereby grants to Alcoa, Inc., whose address is P.O. Box 101, Bldg. 505, Point Comfort, TX, 77978-0101, ("Lessee"), the right to use the surface estate of certain Permanent School Fund land (the "Leased Premises") for the purposes identified in Article V below.

ARTICLE II. PREMISES

2.01. The Leased Premises is described below and further described or depicted on Exhibits A, B, C-1, C-2, C-3 and C-4, attached hereto and collectively incorporated by reference for all purposes:

Being an approximately 39 acre portion of State Tracts Nos. 32 and 49, Powderhorn Lake, Calhoun County, Texas (the "Premises").

2.02. LESSEE HAS INSPECTED THE PHYSICAL AND TOPOGRAPHIC CONDITION OF THE LEASED PREMISES AND ACCEPTS SAME "AS IS" IN ITS EXISTING PHYSICAL AND TOPOGRAPHIC CONDITION. LESSEE IS NOT RELYING ON ANY REPRESENTATION OR WARRANTY OF THE STATE REGARDING ANY ASPECT OF THE PREMISES, BUT IS RELYING ON LESSEE'S OWN INSPECTION OF THE PREMISES. THE STATE DISCLAIMS ANY AND ALL WARRANTIES OF HABITABILITY, MERCHANTABILITY, SUITABILITY, FITNESS FOR ANY PURPOSE, AND ANY OTHER WARRANTY WHATSOEVER NOT EXPRESSLY SET FORTH IN THIS LEASE. THE STATE AND LESSEE HEREBY AGREE AND ACKNOWLEDGE THAT THE USE OF THE TERMS "GRANT" AND/OR "CONVEY" IN NO WAY IMPLIES THAT THIS LEASE OR THE LEASED PREMISES ARE FREE OF LIENS, ENCUMBRANCES AND/OR PRIOR RIGHTS. LESSEE IS HEREBY PUT ON NOTICE THAT ANY PRIOR GRANT AND/OR ENCUMBRANCES MAY BE OF RECORD AND LESSEE IS ADVISED TO EXAMINE ALL RECORDS OF THE STATE AND COUNTY IN WHICH THE LEASED PREMISES ARE LOCATED. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS LEASE.

ARTICLE III. TERM

3.01. This Coastal Surface Lease No. SL20040025 is for a term of ten (10) years, commencing on September 1, 2004, and terminating on August 31, 2014, unless earlier terminated as provided herein. The State reserves the right to review, amend, cancel or otherwise modify this agreement at any time during its term upon 30-day written notice to Lessee in accordance with the procedures set forth in ARTICLE XI of this Lease. Renewal of this agreement is at the sole discretion of the State, and no right to renew is implied or provided for herein.

ARTICLE IV. CONSIDERATION

4.01. A. As consideration ("Consideration") for the granting of this Lease, Lessee shall pay rent ("Rent") to the State (payable to the Commissioner of the General Land Office at Austin, Texas) the sum of **Thirty-nine Thousand and 00/100 Dollars (\$39,000.00)**.

B. Consideration for this Lease shall be payable in ten (10) annual installments, in advance, of **Three Thousand, Nine Hundred and 00/100 Dollars (\$3,900.00)**. The first annual installment shall be made upon the execution hereof and subsequent annual installments are to be made on or before each anniversary of the effective date hereof.

C. Upon proper early termination of this Lease in accordance with Section 9.01, the Consideration required in Section 4.01 shall be reduced by Three Thousand, Nine Hundred and 00/100 Dollars (\$3,900.00) for each year that would have been remaining under Article III if this Lease had not been terminated early.

Past due Rent and other past due payments shall bear interest from maturity at the rate of ten percent (10%) per annum from the date when due until actually paid, as provided in Section 51.301, TEX. NAT. RES. CODE ANN. Failure of Lessee to make a payment on or before the date the same becomes due shall, at the State's option, make all payments due and payable immediately.

ARTICLE V. USE OF THE PREMISES

5.01. The Leased Premises may be used by Lessee solely for a **marsh construction and implementation project** and for no other purpose. All work authorized under this Lease shall be performed in accordance with the Consent Decree for Natural Resource Damages in the case of *United States of America and State of Texas v. Alcoa Inc. and Alcoa World Alumina L.L.C* ("NRD Consent Decree"), to be entered by the United States District Court for the Southern District of Texas, and the Marsh Implementation Plan (incorporated into the NRD Consent Decree by reference), including any modifications thereto made in accordance with the terms of the NRD Consent Decree. Upon entry of the NRD Consent Decree, a copy of such Decree shall be filed in the General Land Office records. Lessee is specifically prohibited from modifying the premises in any manner not authorized herein, and from using, or allowing the use by others of, the Leased Premises for any other purpose.

5.02. Lessee shall not use, or permit the use of, the Leased Premises for any illegal purpose. Lessee will comply with, and will cause its officers, employees, agents and invitees to comply with all applicable federal, State and local laws, ordinances and rules concerning the use of the Leased Premises.

5.03. The State reserves the exclusive right to grant easements, rights-of-way and/or other grants of interest authorizing use of the Leased Premises including production and development of oil, gas and other minerals thereunder, provided such use does not unreasonably interfere with Lessee's use thereof.

5.04. Lessee shall not grant other rights in or to the Leased Premises to any other person or entity, and any attempt to do so shall be void and of no effect and shall constitute a default by Lessee hereunder.

5.05. The State reserves the right to enter upon the Leased Premises at any time with or without prior notice to Lessee to inspect the condition thereof and/or take action authorized by this Lease.

5.06. The Leased Premises are subject to prospecting, production and development of oil, gas and other minerals and other materials of commercial value by the State, its lessees, permittees, licensees or other agents, assigns or representatives. Lessee shall not interfere with such use of the Leased Premises and shall allow any lessee, permittee, licensee or other agent, assignee or representative of the State and/or the School Land Board the right of ingress and egress over, across and through, and the use of, the Leased Premises for any and all purposes authorized by State.

5.07. Lessee may not charge State's authorized lessees, permit holders, licensees or other agents, assigns or representatives surface damages, or any other fee, for use of the Leased Premises; provided, however, the foregoing shall not limit the liability of any person or entity to Lessee for damages caused to property owned by Lessee.

5.08. Lessee's use of the Premises is subject to and contingent upon compliance with the following covenants, obligations and conditions (the "Special Conditions"):

1. Lessee shall notify the General Land Office Corpus Christi Field Office in writing at least ten (10) days prior to commencing construction operations and within ten (10) days following completion of construction operations.
2. Upon request, the Lessee shall provide to the General Land Office Corpus Christi Field Office a copy of any data, information, report, or notice relating to the Marsh Implementation Plan required to be submitted to the Lead Administrative Trustee under the NRDA Consent Decree.
3. No later than the thirtieth (30th) day following the Lead Administrative Trustee's issuance of the Certification of Construction Completion of the Marsh Restoration Project, as provided under the Marsh Implementation Plan and Paragraph 47 of the NRD Consent Decree, Lessee shall submit to the GLO Corpus Christi Field Office an "as built" survey of the Leased Premises.
4. No later than the thirtieth (30th) day following the Lead Administrative Trustee's issuance of a Certificate of Project Completion for the Marsh Restoration Project as provided under the Marsh Implementation Plan and Paragraph 50 of the NRD Consent Decree, Lessee shall give written notice of such Certification to the General Land Office Corpus Christi Field Office.
5. In the event of any conflict between the requirements of this Lease and the terms of the NRD Consent Decree with respect to the work authorized under this Lease, the terms of the NRD Consent Decree shall control.
6. Riprap breakwaters shall be constructed of suitable rock or broken concrete material that is free of metal rebar.
7. The General Land Office reserves the right to approve all work prior to releasing Grantee from any and all contractual conditions.
8. Permanent markers/pilings and navigation aids as required by U.S. Coast Guard specifications and guidelines shall be installed and maintained during and upon the completion of construction of the breakwater and during the term of the Lease.

ARTICLE VI. ASSIGNMENTS AND SUBLEASES

6.01. Lessee shall not assign the Premises or the rights granted herein, or sublease any portion of the Premises, in whole or part, to any third party for any purpose without the prior written consent of the State, which may be granted or denied in the State's sole discretion. Any unauthorized assignment shall be void and of no effect and such assignment shall not relieve Lessee of any liability for any obligation, covenant, or condition of this Lease. This provision, and the prohibition against assignment contained herein, shall survive expiration or earlier termination of

this Lease. For purposes of this Lease, an assignment is any transfer, including by operation of law, to another of all or part of the property, interest or rights herein granted.

ARTICLE VII. PROTECTION OF NATURAL AND HISTORICAL RESOURCES

7.01. Lessee shall take no action on the premises which results in the discharge of any solid or liquid waste material. Lessee shall use the highest degree of care and all appropriate safeguards to: (i) prevent pollution of air, ground, and water in and around the Premises, and (ii) to protect and preserve natural resources and wildlife habitat. Lessee shall comply with all applicable rules and regulations of the General Land Office and other governmental agencies responsible for the protection and preservation of public lands and waters. In the event of pollution or an incident that may result in pollution of the Premises or adjacent property which is the result of the acts or omissions of Lessee (or Lessee's employees, contractors, invitees and agents), Lessee shall immediately notify the State, use all means reasonably available to recapture any pollutants which have escaped or may escape, and mitigate for any and all natural resources damages caused thereby.

7.02. LESSEE IS EXPRESSLY PLACED ON NOTICE OF THE NATIONAL HISTORICAL PRESERVATION ACT OF 1966, (PB-89-66, 80 STATUTE 915; §470) AND THE ANTIQUITIES CODE OF TEXAS, CHAPTER 191, TEXAS NATURAL RESOURCES CODE. IN THE EVENT THAT ANY SITE, OBJECT, LOCATION, ARTIFACT OR OTHER FEATURE OF ARCHEOLOGICAL, SCIENTIFIC, EDUCATIONAL, CULTURAL OR HISTORIC INTEREST IS ENCOUNTERED DURING ANY ACTIVITY ON THE PREMISES, LESSEE WILL IMMEDIATELY CEASE SUCH ACTIVITIES AND WILL IMMEDIATELY NOTIFY STATE AND THE TEXAS HISTORICAL COMMISSION, P.O. BOX 12276, AUSTIN, TEXAS 78711, SO THAT ADEQUATE MEASURES MAY BE UNDERTAKEN TO PROTECT OR RECOVER SUCH DISCOVERIES OR FINDINGS, AS APPROPRIATE.

ARTICLE VIII. INDEMNITY

8.01. LESSEE SHALL BE FULLY LIABLE AND RESPONSIBLE FOR ANY DAMAGE, OF ANY NATURE, ARISING OR RESULTING FROM ITS OWN ACTS OR OMISSIONS RELATED TO ITS EXERCISE OF THE RIGHTS GRANTED HEREIN. LESSEE AGREES TO AND SHALL INDEMNIFY AND HOLD THE STATE, THE STATE'S OFFICERS, AGENTS, AND EMPLOYEES, HARMLESS FROM AND AGAINST CLAIMS, SUIT, COSTS, LIABILITY OR DAMAGES OF ANY KIND, INCLUDING STRICT LIABILITY CLAIMS, WITHOUT LIMIT AND WITHOUT REGARD TO CAUSE OF THE DAMAGES OR THE NEGLIGENCE OF ANY PARTY, EXCEPT FOR THE CONSEQUENCES OF THE NEGLIGENT ACTS OR WILLFUL MISCONDUCT OF THE STATE, THE STATE'S OFFICERS, AGENTS, EMPLOYEES, OR INVITEES, ARISING DIRECTLY OR INDIRECTLY FROM LESSEE'S USE OF THE PREMISES (OR ANY ADJACENT OR CONTIGUOUS PSF LAND) OR FROM ANY BREACH BY LESSEE OF THE TERMS, COVENANTS OR CONDITIONS CONTAINED HEREIN. THE PROVISIONS OF THIS SECTION SHALL SURVIVE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

ARTICLE IX. DEFAULT, TERMINATION AND EXPIRATION

9.01 The Lessee shall have the right to request termination of this Lease prior to the expiration of the Term set forth in ARTICLE III upon the Lead Administrative Trustee's issuance of the Certification of Project Completion of the Marsh Restoration Project, as provided under the Marsh Implementation Plan and Paragraph 50 of the NRD Consent Decree. After the issuance of such certification, the Lessee may submit a written request for early termination of this Lease to the State. Pursuant to such written request, the State shall have the right to terminate this Lease and all rights inuring to Lessee herein prior to the expiration of the Term by sending written notice of such termination to Lessee in accordance with ARTICLE XI of this Lease. Upon sending by the State of such written notice of termination to Lessee, this Lease shall automatically terminate and all rights granted herein to Lessee shall revert to the State. Such termination shall not prejudice the rights of the State to collect any money due or to seek recovery on any claim arising hereunder. The exercise of the State's right of early termination shall not be unreasonably delayed or withheld.

9.02 If, following thirty (30) days prior written notice from the State specifying a default or breach, Lessee fails to pay any money due hereunder or is in breach of any term or condition of this Lease, the State shall have the right, at its option and its sole discretion, to terminate this Lease and all rights inuring to Lessee herein by sending written notice of such termination to Lessee in accordance with the procedures set forth in ARTICLE XI of this Lease. Upon sending of such written notice, this Lease shall automatically terminate and all rights granted herein to Lessee shall

revert to the State. Such termination shall not prejudice the rights of the State to collect any money due or to seek recovery on any claim arising hereunder.

9.03 Unless the State has granted Lessee's request to waive the requirements of this paragraph under Section 9.04, Lessee shall, within one hundred twenty (120) days from the expiration or termination date, remove all personal property, structures, and improvements from the Premises and restore the Premises (and all other property affected by the Lessee's removal activities) to the same condition that existed prior to the placement, construction, or installation thereof on the Premises, provided that Lessee shall not be required to remove any structures or improvements from the Premises following the Lessee's full performance of its obligation to implement the Marsh Restoration Project in accordance with the terms of the NRD Consent Decree. Lessee's activities shall be conducted in accordance with General Land Office guidelines in effect at the time of such activity, including, without limitation, specific techniques required for protection of natural resources and mitigation, or payment in lieu of mitigation, for damages resulting from removal activity. Upon such expiration or termination Lessee shall notify the State in writing within ten (10) days following completion of Lessee's removal and restoration activity. If Lessee fails to remove its personal property from the Leased Premises within the time specified in Section 9.02 above, or if Lessee fails to remove improvements placed or constructed on the Leased Premises by or behalf of Lessee pursuant to a notice by the State to do so pursuant to Section 9.02, the State may, at its sole option, remove and dispose of such property (with no obligation to sell or otherwise maintain such property in accordance with the Uniform Commercial Code), at Lessee's sole cost and expense, or the State may elect to own such property by filing a notice of such election pursuant to Section 51.302(g) of the Texas Natural Resources Code. If the State elects to remove Lessee's property and dispose of it pursuant to this section, then in such an event Lessee shall be obligated to reimburse the State for the reasonable costs of such removal and disposal within ten (10) days of State's demand for reimbursement. **THE TERMS OF THIS SECTION SHALL SURVIVE EXPIRATION OR EARLIER TERMINATION OF THIS LEASE.**

9.04 The Lessee shall have the right to request waiver of the removal requirement of Section 9.03 with respect to structures on and improvements to the Premises. Prior to termination of this Lease, the Lessee may submit a written request for waiver of the removal requirement to the State. Pursuant to such written request, the State shall have the right, at its option and its sole discretion, to waive the removal requirement by sending written notice of such waiver to Lessee in accordance with ARTICLE XI of this Lease. Upon sending by the State of such written notice of waiver to Lessee, the obligation of the Lessee to remove structures and improvements shall automatically terminate and all property rights in such structures and improvements shall revert to the State. Such waiver shall not prejudice the rights of the State to collect any money due or to seek recovery on any claim arising hereunder. The exercise of the State's right to waive the removal requirement of Section 9.03 shall not be unreasonably withheld.

9.05 In addition to the above, Lessee shall pay and discharge any and all taxes, general and special assessments, and other charges which during the term of this Lease may be levied on or assessed against the Premises or the Improvements constructed thereon, provided such taxes result from Lessee's use of this easement. Lessee shall pay such taxes, charges, and assessments not less than five (5) days prior to the date of delinquency thereof directly to the authority or official charged with the collection thereof. Lessee shall have the right in good faith at its sole cost and expense to contest any such taxes, charges, and assessments, and shall be obligated to pay the contested amount only if and when finally determined to be owed.

9.06 **LESSEE AGREES TO AND SHALL PROTECT AND HOLD THE STATE HARMLESS FROM LIABILITY FOR ANY AND ALL SUCH TAXES, CHARGES, AND ASSESSMENTS, TOGETHER WITH ANY PENALTIES AND INTEREST THEREON, AND FROM ANY SALE OR OTHER PROCEEDING TO ENFORCE PAYMENT THEREOF.**

ARTICLE X. HOLDOVER

10.01. If Lessee holds over and continues in possession of the Premises after expiration or earlier termination of this Lease, Lessee will be deemed to be occupying the Premises on the basis of a month-to-month tenancy subject to all of the terms and conditions of this Lease, except that as liquidated damages by reason of such holding over, the amounts payable by Lessee under this Lease shall be increased such that the Consideration payable under Section 4.01 of this

Lease and any other sums payable hereunder shall be two hundred percent (200%) of the amount payable to the State by Lessee for the applicable period immediately preceding the first day of the holdover period. Lessee acknowledges that in the event it holds over, the State's actual damages will be difficult, if not impossible, to ascertain, and the liquidated damages herein agreed to be paid are reasonable in amount and are payable in lieu of actual damages and are not a penalty. Lessee further acknowledges that acceptance of hold over Consideration does not imply State consent to hold over.

10.02. The tenancy from month-to-month described in Section 10.01 of this Lease may be terminated by either party upon thirty (30) days written notice to the other.

10.03. The Consideration due after notice of termination has been given is to be calculated according to Section 10.01 hereinabove on a pro rata basis. If upon notice of termination by the State, Lessee pays Consideration in excess of the amount due and payable and the State accepts such payment, the acceptance of such payment will not operate as a waiver by the State of the notice of termination unless such waiver is in writing and signed by the State. Any such excess amounts paid by Lessee and accepted by the State shall be promptly refunded by the State after deducting therefrom any amounts owed to the State.

ARTICLE XI. NOTICE AND REQUEST

11.01. Any notice or request which may or shall be given under the terms of this Lease shall be in writing and shall be either delivered by hand, by facsimile, or sent by United States first class mail, adequate postage prepaid, if for the State to Deputy Commissioner, Asset Inspection, addressed to his attention, 1700 North Congress Avenue, Austin, Texas 78701-1495, FAX: (512) 463-5304, and if for Lessee, to Alcoa, Inc., P.O. Box 101, Bldg. 505, Point Comfort, TX 77978-0101. Any party's address may be changed from time to time by such party by giving notice as provided above, except that the Premises may not be used by Lessee as the sole notice address. No change of address of either party shall be binding on the other party until notice of such change of address is given as herein provided.

11.02. For purposes of the calculation of various time periods referred to in this Lease, notice delivered by hand shall be deemed received when delivered to the place for giving notice to a party referred to above. Notice mailed in the manner provided above shall be deemed completed upon the earlier to occur of (i) actual receipt as indicated on the signed return receipt, or (ii) three (3) days after posting as herein provided.

ARTICLE XII. INFORMATIONAL REQUIREMENTS

12.01. A. Lessee shall provide written notice to the State of any change in Lessee's name, address, corporate structure, legal status or any other information relevant to this Lease.

B. Lessee shall provide to the State any other information reasonably requested by the State in writing within fifteen (15) days following such request or such other time period approved by the State (such approval not to be unreasonably withheld).

ARTICLE XIII. MISCELLANEOUS PROVISIONS

13.01. With respect to terminology in this Lease, each number (singular or plural) shall include all numbers, and each gender (male, female or neuter) shall include all genders. If any provision of this Lease shall ever be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provisions of the Lease, but such other provisions shall continue in full force and effect.

13.02. The titles of the Articles in this Lease shall have no effect and shall neither limit nor amplify the provisions of the Lease itself. This Lease shall be binding upon and shall accrue to the benefit of the State, its successors and assigns, Lessee, Lessee's successors and assigns (or heirs, executors, administrators and assigns, as the case may be); however, this clause does not constitute a consent by the State to any assignment by Lessee, but instead refers only to

those instances in which an assignment is hereafter made in strict compliance with Article VI above, or in the case of a deceased natural person Lessee, refers to the instances previously referred to in this sentence and also circumstances in which title to Lessee's interest under this Lease passes, after the demise of Lessee, pursuant to Lessee's will or the laws of intestate succession. The words "hereof," "herein," "hereunder," "hereinafter" and the like refer to this entire instrument, not just to the specific article, section or paragraph in which such words appear.

13.03. Neither acceptance of Consideration (or any portion thereof) or any other sums payable by Lessee hereunder (or any portion thereof) to the State nor failure by the State to complain of any action, non-action or default of Lessee shall constitute a waiver as to any breach of any covenant or condition of Lessee contained herein nor a waiver of any of the State's rights hereunder. *Waiver by the State of any right for any default of Lessee shall not constitute a waiver of any right for either a prior or subsequent default of the same obligation or for any prior or subsequent default of any other obligation.* No right or remedy of the State hereunder or covenant, duty or obligation of Lessee hereunder shall be deemed waived by the State unless such waiver be in writing, signed by a duly authorized representative of the State.

13.04. No provision of this Lease shall be construed in such a way as to constitute the State and Lessee joint ventures or co-partners or to make Lessee the agent of the State or make the State liable for the debts of Lessee.

13.05. In all instances where Lessee is required hereunder to pay any sum or do any act at a particular indicated time or within an indicated period, it is understood that time is of the essence.

13.06. Under no circumstances whatsoever shall the State ever be liable hereunder for consequential damages or special damages. The terms of this Lease shall only be binding on the State during the period of its ownership of the Premises, and in the event of the transfer of such ownership interest, the State shall thereupon be released and discharged from all covenants and obligations thereafter accruing, but such covenants and obligations shall be binding during the Lease term upon each new owner for the duration of such owner's ownership.

13.07. All monetary obligations of the State and Lessee (including, without limitation, any monetary obligation for damages for any breach of the respective covenants, duties or obligations of either party hereunder) are performable exclusively in Austin, Travis County, Texas.

13.08. The obligation of Lessee to pay all Consideration and other sums hereunder provided to be paid by Lessee and the obligation of Lessee to perform Lessee's other covenants and duties under this Lease constitute independent, unconditional obligations to be performed at all times provided for hereunder, save and except only when an abatement thereof or reduction therein is expressly provided for in this Lease and not otherwise. Lessee waives and relinquishes all rights which Lessee might have to claim any nature of lien against, or withhold or deduct from or offset against, any Consideration or other sums provided hereunder to be paid to the State by Lessee. Lessee waives and relinquishes any right to assert, either as a claim or as a defense, that the State is bound to perform or is liable for the nonperformance of any implied covenant or implied duty of the Grantor not expressly set forth in this Lease.

13.09. In the event any provision of this Lease is more restrictive than any administrative rule promulgated by the General Land Office and/or the School Land Board, this Lease shall control.

ARTICLE XIV. FILING

14.01. Lessee shall, at its sole cost and expense, record this Lease in the Calhoun County, Texas, Real Property Records and provide a file marked copy to the State within 60 days after this Lease is executed by all parties.

ARTICLE XV. ENTIRE AGREEMENT

15.01. This Lease, including any exhibits to the same, constitutes the entire agreement between the State and Lessee; no prior written or prior oral contemporaneous oral promises or representations shall be binding. The submission of this Lease for examination by Lessee or the State and/or execution thereof by the Lessee or the State does not constitute a reservation of or option for the Leased Premises and this Lease shall become effective only upon execution of all parties hereto and deliver of a fully executed counterpart thereof by the State to the Lessee. This Lease shall not be amended, changed or extended except by written instrument signed by both parties thereto.

09/29/04 WED 06:49 FAX 812 483 8304

GLD PERMITTING

0003

IN TESTIMONY WHEREOF, witness my hand and the Seal of Office.

LESSOR:
THE STATE OF TEXAS

LESSEE:
Alcoa, Inc.

By: *Jerry E. Patterson*
JERRY E. PATTERSON
Commissioner, General Land Office

By: *Ronald W. Wendell*

Ronald W. Wendell
(Printed Name & Title)

Date: *10/13/04*

Date: *8-26-04*

APPROVER:

County: *Wichita*
Legal: *ALCO*
Deputy: *ALCO*
Brookline: *ALCO*



ACKNOWLEDGMENT

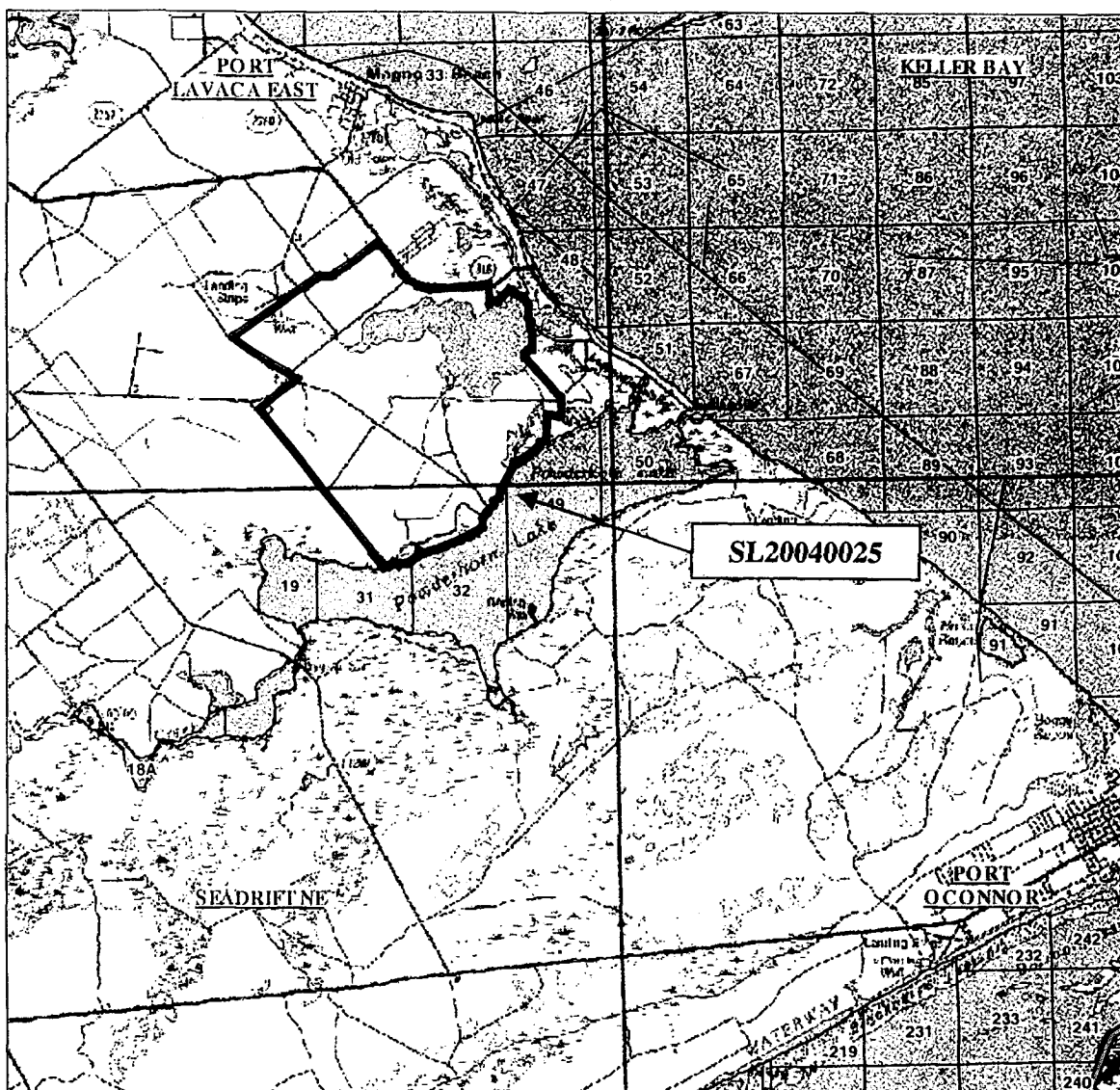
STATE OF TEXAS
COUNTY OF *CHEROKEE*

This instrument was acknowledged before me on the *26th* day of *August*,
2004, by *Ronald W. Wendell*.

Marion E. Warner

Notary Public, State of Texas

My commission expires: *11-12-06*



Title: Alcoa, Inc. SL20040025	Date of Inspection: May 13, 2004
Company: General Land Office	Creator: Steve Buschang
Scale: 1: 60,000	Exhibit A

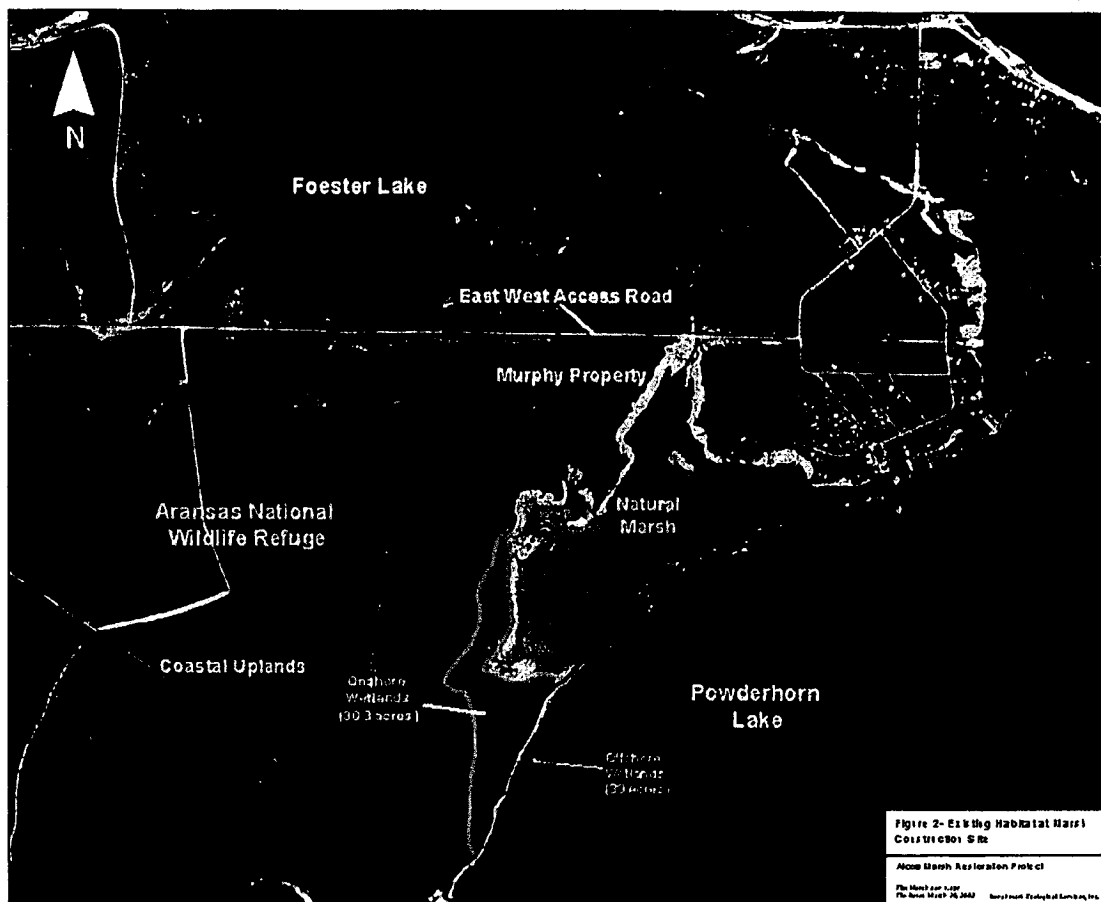
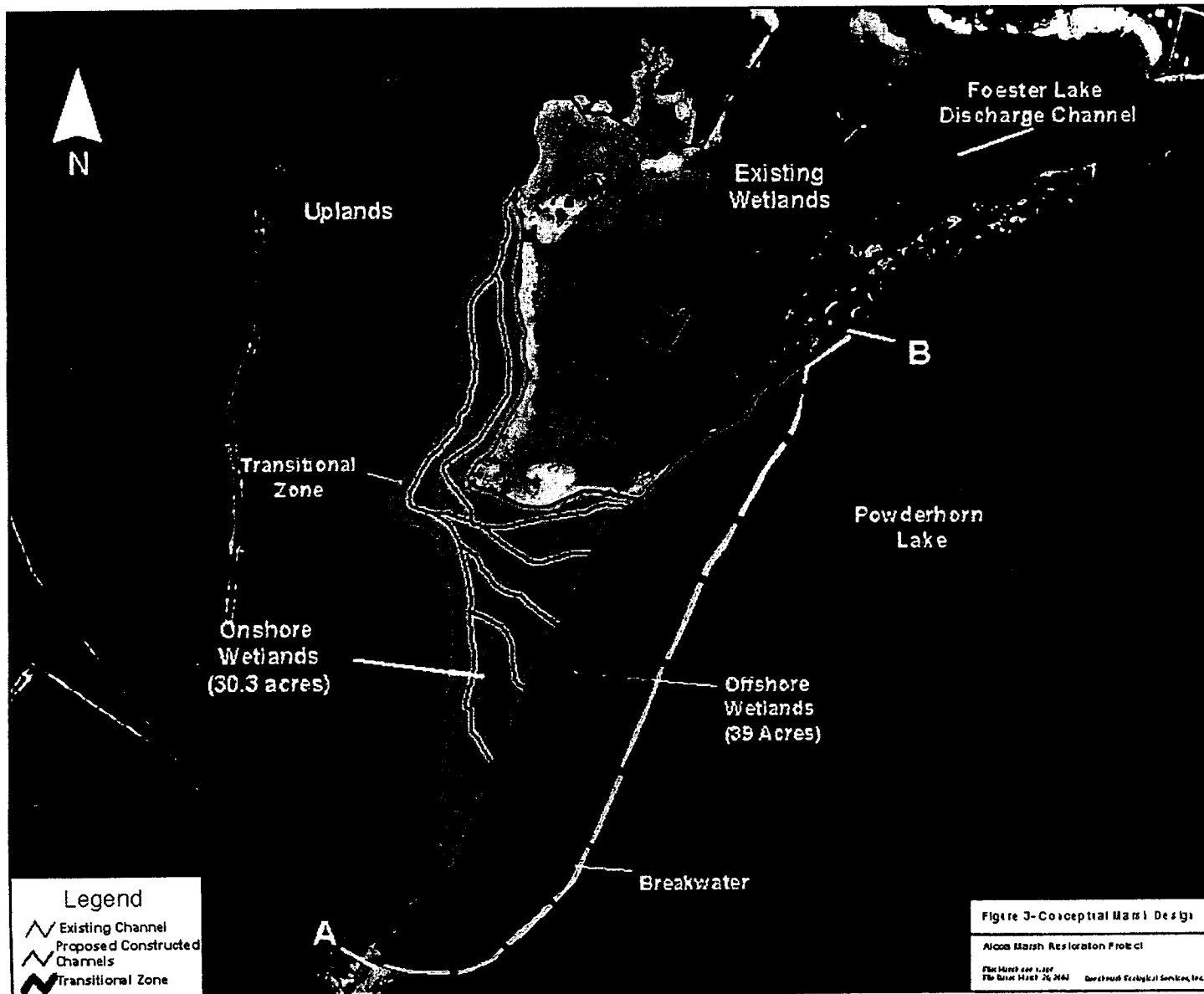
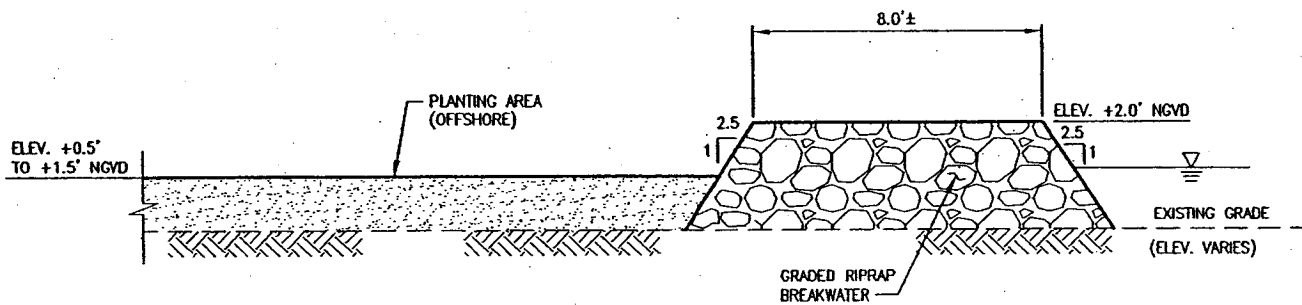


Exhibit B

Exhibit C.1





TYPICAL SECTION – ROCK BREAKWATER

SCALE: N.T.S.

J:\SWACAD\Projects\2022\20224.dwg\00\EXHIBITS\20224.F4.dwg 3/19/2023 9:00:51 AM CST



SHINER MOSELEY AND ASSOCIATES, INC.
ENGINEERS & CONSULTANTS
555 North Carancahua Street, Suite 1650
Corpus Christi, Texas 78478

SMA JOB NO.: 20224

ALCOA

TYPICAL SECTION –
ROCK BREAKWATER

MARSH RESTORATION PROJECT

FIGURE 4

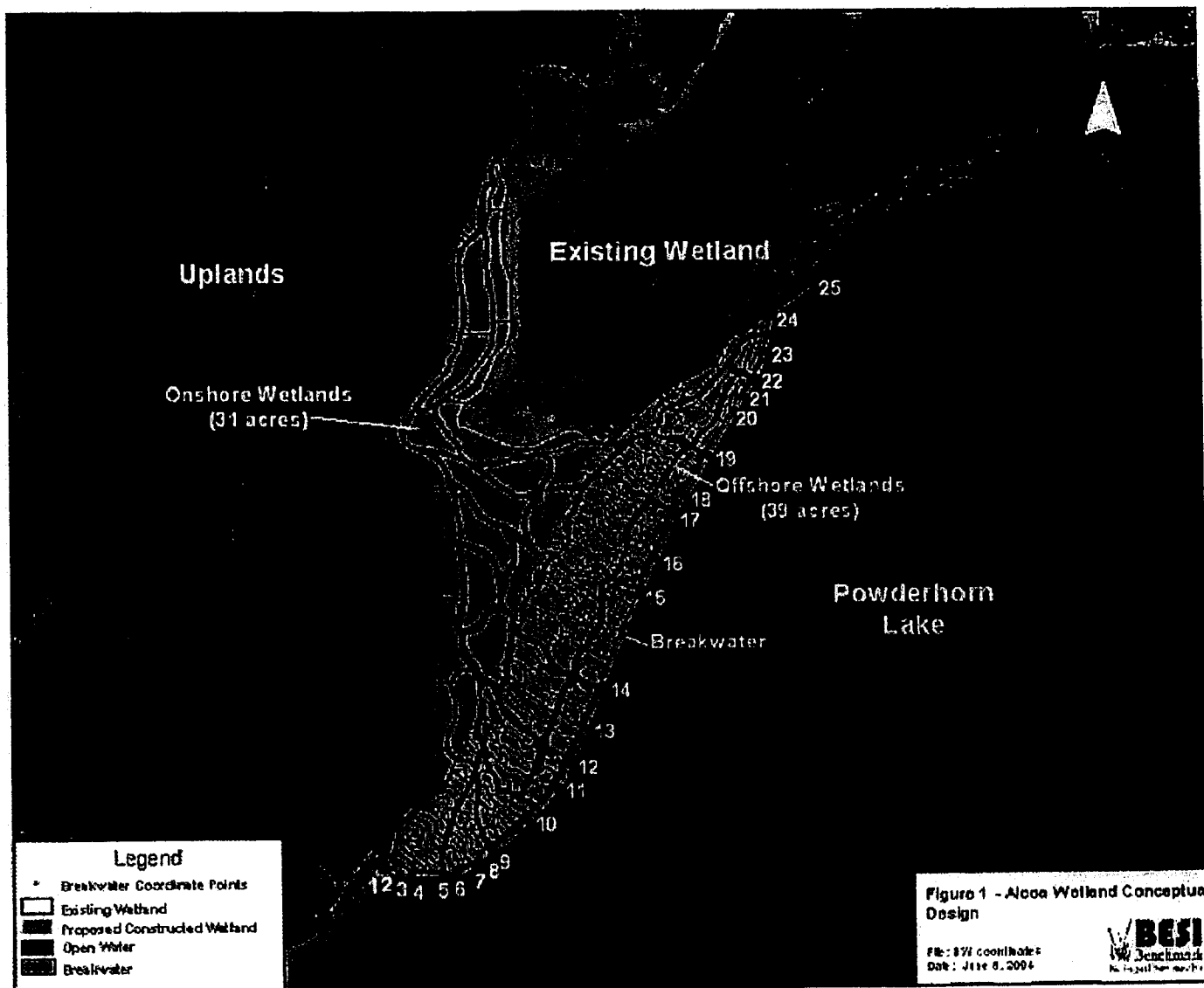
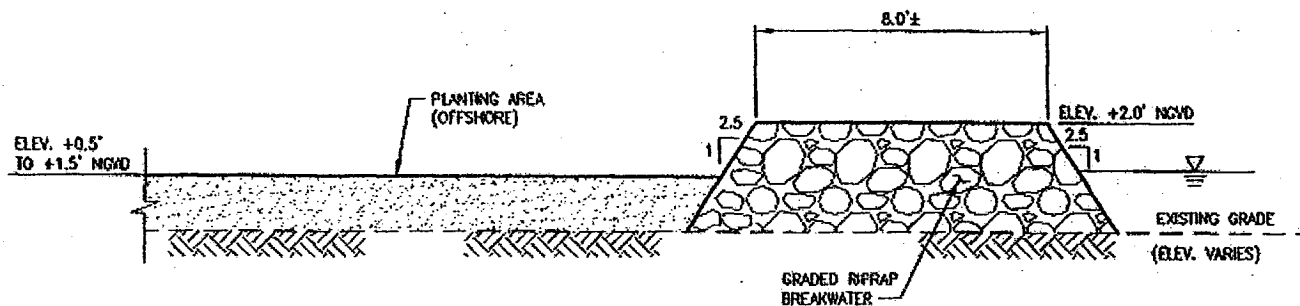


EXHIBIT C-3
Alcoa, Inc. SL20040025
May 15, 2004 --- Steve Buschang



TYPICAL SECTION - ROCK BREAKWATER

SCALE: N.T.S.

EXHIBIT C-4

Alcoa, Inc. SL20040025

May 15, 2004 --- Steve Buschang



SHINER MOSELEY AND ASSOCIATES, INC.
ENGINEERS & CONSULTANTS
555 North Caraculm Street, Suite 1650
Corpus Christi, Texas 78478

SMA JOB NO.: 20224

ALCOA

TYPICAL SECTION -
ROCK BREAKWATER

MARSH RESTORATION PROJECT

FIGURE 4

Exhibit 8

TGLO Coastal Surface Lease (for Oyster Reef Project Implementation)

The State of Texas



Austin, Texas

COASTAL SURFACE LEASE NO. SL20030026

STATE OF TEXAS

§

§

§

COUNTY OF CALHOUN

KNOW ALL MEN BY THESE PRESENTS:

This Coastal Surface Lease SL20030026, ("Lease"), is granted by virtue of the authority granted in Section 51.121, et seq., TEX. NAT. RES. CODE ANN. 31 TEX. ADMIN. CODE, Chapter 13, Land Resources, and all other applicable statutes and rules, as the same may be amended from time to time, and is subject to all applicable regulations promulgated from time to time.

ARTICLE I. PARTIES

1.01. In consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the STATE OF TEXAS, acting by and through the Commissioner of the General Land Office, on behalf of the Permanent School Fund of the State of Texas (the "State"), hereby grants to Alcoa, Inc., whose address is P.O. Box 101, Bldg. 505, Point Comfort, TX, 77978-0101, ("Lessee"), the right to use the surface estate of certain Permanent School Fund land (the "Leased Premises") for the purposes identified in Article V below.

ARTICLE II. PREMISES

2.01. The Leased Premises is described below and further described or depicted on Exhibits A, B, and C attached hereto and collectively incorporated by reference for all purposes:

Being an approximately 479,162 square-foot portion of State Tracts Nos. 61 and 57, Keller Bay and Lavaca Bay, Calhoun County, Texas (the "Premises").

2.02. LESSEE HAS INSPECTED THE PHYSICAL AND TOPOGRAPHIC CONDITION OF THE LEASED PREMISES AND ACCEPTS SAME "AS IS" IN ITS EXISTING PHYSICAL AND TOPOGRAPHIC CONDITION. LESSEE IS NOT RELYING ON ANY REPRESENTATION OR WARRANTY OF THE STATE REGARDING ANY ASPECT OF THE PREMISES, BUT IS RELYING ON LESSEE'S OWN INSPECTION OF THE PREMISES. THE STATE DISCLAIMS ANY AND ALL WARRANTIES OF HABITABILITY, MERCHANTABILITY, SUITABILITY, FITNESS FOR ANY PURPOSE, AND ANY OTHER WARRANTY WHATSOEVER NOT EXPRESSLY SET FORTH IN THIS LEASE. THE STATE AND LESSEE HEREBY AGREE AND ACKNOWLEDGE THAT THE USE OF THE TERMS "GRANT" AND/OR "CONVEY" IN NO WAY IMPLIES THAT THIS LEASE OR THE LEASED PREMISES ARE FREE OF LIENS, ENCUMBRANCES AND/OR PRIOR RIGHTS. LESSEE IS HEREBY PUT ON NOTICE THAT ANY PRIOR GRANT AND/OR ENCUMBRANCES MAY BE OF RECORD AND LESSEE IS ADVISED TO EXAMINE ALL RECORDS OF THE STATE AND COUNTY IN WHICH THE LEASED PREMISES ARE LOCATED. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS LEASE.

ARTICLE III. TERM

3.01. This Coastal Surface Lease No. SL20030026 is for a term of five (5) years, commencing on September 1, 2004, and terminating on August 31, 2009, unless earlier terminated as provided herein. The State reserves the right to review, amend, cancel or otherwise modify this agreement at any time during its term upon 30-day written notice to Lessee in accordance with the procedures set forth in ARTICLE XI of this Lease. Renewal of this agreement is at the sole discretion of the State, and no right to renew is implied or provided for herein.

ARTICLE IV. CONSIDERATION

4.01. A. As consideration ("Consideration") for the granting of this Lease, Lessee shall pay rent ("Rent") to the State (payable to the Commissioner of the General Land Office at Austin, Texas) the sum of **Five Thousand, Five Hundred and 00/100 Dollars (\$5,500.00)**.

B. Consideration for this Lease shall be payable in five(5) annual installments, in advance, of **One Thousand, One Hundred and 00/100 Dollars (\$1,100.00)**. The first annual installment shall be made upon the execution hereof and subsequent annual installments are to be made on or before each anniversary of the effective date hereof.

C. Upon proper early termination of this Lease in accordance with Section 9.01, the Consideration required in Section 4.01 shall be reduced by One Thousand, One Hundred and 00/100 Dollars (\$1,100.00) for each year that would have been remaining under Article III if this Lease had not been terminated early.

Past due Rent and other past due payments shall bear interest from maturity at the rate of ten percent (10%) per annum from the date when due until actually paid, as provided in Section 51.301, TEX. NAT. RES. CODE ANN. Failure of Lessee to make a payment on or before the date the same becomes due shall, at the State's option, make all payments due and payable immediately.

ARTICLE V. USE OF THE PREMISES

5.01. The Leased Premises may be used by Lessee solely for a **oyster reef construction and implementation project** and for no other purpose. All work authorized under this Lease shall be performed in accordance with the Consent Decree for Natural Resource Damages in the case of *United States of America and State of Texas v. Alcoa Inc. and Alcoa World Alumina L.L.C* ("NRD Consent Decree"), to be entered by the United States District Court for the Southern District of Texas, and the Oyster Reef Implementation Plan (incorporated into the NRD Consent Decree by reference), including any modifications thereto made in accordance with the terms of the NRD Consent Decree. Upon entry of the NRD Consent Decree, a copy of such Decree shall be filed in the General Land Office records. Lessee is specifically prohibited from modifying the premises in any manner not authorized herein, and from using, or allowing the use by others of, the Leased Premises for any other purpose.

5.02. Lessee shall not use, or permit the use of, the Leased Premises for any illegal purpose. Lessee will comply with, and will cause its officers, employees, agents and invitees to comply with all applicable federal, State and local laws, ordinances and rules concerning the use of the Leased Premises.

5.03. The State reserves the exclusive right to grant easements, rights-of-way and/or other grants of interest authorizing use of the Leased Premises including production and development of oil, gas and other minerals thereunder, provided such use does not unreasonably interfere with Lessee's use thereof.

5.04. Lessee shall not grant other rights in or to the Leased Premises to any other person or entity, and any attempt to do so shall be void and of no effect and shall constitute a default by Lessee hereunder.

5.05. The State reserves the right to enter upon the Leased Premises at any time with or without prior notice to Lessee to inspect the condition thereof and/or take action authorized by this Lease.

5.06. The Leased Premises are subject to prospecting, production and development of oil, gas and other minerals and other materials of commercial value by the State, its lessees, permittees, licensees or other agents, assigns or representatives. Lessee shall not interfere with such use of the Leased Premises and shall allow any lessee, permittee, licensee or other agent, assignee or representative of the State and/or the School Land Board the right of ingress and egress over, across and through, and the use of, the Leased Premises for any and all purposes authorized by State.

5.07. Lessee may not charge State's authorized lessees, permit holders, licensees or other agents, assigns or representatives surface damages, or any other fee, for use of the Leased Premises; provided, however, the foregoing shall not limit the liability of any person or entity to Lessee for damages caused to property owned by Lessee.

5.08. Lessee's use of the Premises is subject to and contingent upon compliance with the following covenants, obligations and conditions (the "Special Conditions"):

1. Lessee shall notify the General Land Office Corpus Christi Field Office in writing at least two (2) weeks prior to commencing dredging operations and within one (1) week following completion of the work.
2. Upon request, the Lessee shall provide to the General Land Office Corpus Christi Field Office a copy of any data, information, report, or notice relating to the Oyster Reef Implementation Plan required to be submitted to the Lead Administrative Trustee under the NRDA Consent Decree.
3. No later than the thirtieth (30th) day following the Lead Administrative Trustee's issuance of the Certification of Construction Completion of the Oyster Reef Restoration Project, as provided under the Oyster Reef Implementation Plan and Paragraph 47 of the NRD Consent Decree, Lessee shall submit to the GLO Corpus Christi Field Office an "as built" survey of the Leased Premises.
4. No later than the thirtieth (30th) day following the Lead Administrative Trustee's issuance of a Certificate of Project Completion for the Oyster Reef Restoration Project as provided under the Oyster Reef Implementation Plan and Paragraph 50 of the NRD Consent Decree, Lessee shall give written notice of such Certification to the General Land Office Corpus Christi Field Office.
5. In the event of any conflict between the requirements of this Lease and the terms of the NRD Consent Decree with respect to the work authorized under this Lease, the terms of the NRD Consent Decree shall control.
6. The General Land Office reserves the right to approve all work prior to releasing Grantee from any and all contractual conditions.
7. Permanent markers/pilings and navigation aids as required by U.S. Coast Guard specifications and guidelines shall be installed and maintained during and upon the completion of construction of the oyster reef and during the term of the Lease.

ARTICLE VI. ASSIGNMENTS AND SUBLEASES

6.01. Lessee shall not assign the Premises or the rights granted herein, or sublease any portion of the Premises, in whole or part, to any third party for any purpose without the prior written consent of the State, which may be granted or denied in the State's sole discretion. Any unauthorized assignment shall be void and of no effect and such assignment shall not relieve Lessee of any liability for any obligation, covenant, or condition of this Lease. This provision, and the prohibition against assignment contained herein, shall survive expiration or earlier termination of

this Lease. For purposes of this Lease, an assignment is any transfer, including by operation of law, to another of all or part of the property, interest or rights herein granted.

ARTICLE VII. PROTECTION OF NATURAL AND HISTORICAL RESOURCES

7.01. Lessee shall take no action on the premises which results in the discharge of any solid or liquid waste material. Lessee shall use the highest degree of care and all appropriate safeguards to: (i) prevent pollution of air, ground, and water in and around the Premises, and (ii) to protect and preserve natural resources and wildlife habitat. Lessee shall comply with all applicable rules and regulations of the General Land Office and other governmental agencies responsible for the protection and preservation of public lands and waters. In the event of pollution or an incident that may result in pollution of the Premises or adjacent property which is the result of the acts or omissions of Lessee (or Lessee's employees, contractors, invitees and agents), Lessee shall immediately notify the State, use all means reasonably available to recapture any pollutants which have escaped or may escape, and mitigate for any and all natural resources damages caused thereby.

7.02. LESSEE IS EXPRESSLY PLACED ON NOTICE OF THE NATIONAL HISTORICAL PRESERVATION ACT OF 1966, (PB-89-66, 80 STATUTE 915; §470) AND THE ANTIQUITIES CODE OF TEXAS, CHAPTER 191, TEXAS NATURAL RESOURCES CODE. IN THE EVENT THAT ANY SITE, OBJECT, LOCATION, ARTIFACT OR OTHER FEATURE OF ARCHEOLOGICAL, SCIENTIFIC, EDUCATIONAL, CULTURAL OR HISTORIC INTEREST IS ENCOUNTERED DURING ANY ACTIVITY ON THE PREMISES, LESSEE WILL IMMEDIATELY CEASE SUCH ACTIVITIES AND WILL IMMEDIATELY NOTIFY STATE AND THE TEXAS HISTORICAL COMMISSION, P.O. BOX 12276, AUSTIN, TEXAS 78711, SO THAT ADEQUATE MEASURES MAY BE UNDERTAKEN TO PROTECT OR RECOVER SUCH DISCOVERIES OR FINDINGS, AS APPROPRIATE.

ARTICLE VIII. INDEMNITY

8.01. LESSEE SHALL BE FULLY LIABLE AND RESPONSIBLE FOR ANY DAMAGE, OF ANY NATURE, ARISING OR RESULTING FROM ITS OWN ACTS OR OMISSIONS RELATED TO ITS EXERCISE OF THE RIGHTS GRANTED HEREIN. LESSEE AGREES TO AND SHALL INDEMNIFY AND HOLD THE STATE, THE STATE'S OFFICERS, AGENTS, AND EMPLOYEES, HARMLESS FROM AND AGAINST CLAIMS, SUIT, COSTS, LIABILITY OR DAMAGES OF ANY KIND, INCLUDING STRICT LIABILITY CLAIMS, WITHOUT LIMIT AND WITHOUT REGARD TO CAUSE OF THE DAMAGES OR THE NEGLIGENCE OF ANY PARTY, EXCEPT FOR THE CONSEQUENCES OF THE NEGLIGENT ACTS OR WILLFUL MISCONDUCT OF THE STATE, THE STATE'S OFFICERS, AGENTS, EMPLOYEES, OR INVITEES, ARISING DIRECTLY OR INDIRECTLY FROM LESSEE'S USE OF THE PREMISES (OR ANY ADJACENT OR CONTIGUOUS PSF LAND) OR FROM ANY BREACH BY LESSEE OF THE TERMS, COVENANTS OR CONDITIONS CONTAINED HEREIN. THE PROVISIONS OF THIS SECTION SHALL SURVIVE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

ARTICLE IX. DEFAULT, TERMINATION AND EXPIRATION

9.01 The Lessee shall have the right to request termination of this Lease prior to the expiration of the Term set forth in ARTICLE III upon the Lead Administrative Trustee's issuance of the Certification of Project Completion of the Oyster Reef Restoration Project, as provided under the Oyster Reef Implementation Plan and Paragraph 50 of the NRD Consent Decree. After the issuance of such certification, the Lessee may submit a written request for early termination of this Lease to the State. Pursuant to such written request, the State shall have the right to terminate this Lease and all rights inuring to Lessee herein prior to the expiration of the Term by sending written notice of such termination to Lessee in accordance with ARTICLE XI of this Lease. Upon sending by the State of such written notice of termination to Lessee, this Lease shall automatically terminate and all rights granted herein to Lessee shall revert to the State. Such termination shall not prejudice the rights of the State to collect any money due or to seek recovery on any claim arising hereunder. The exercise of the State's right of early termination shall not be unreasonably delayed or withheld.

9.02 If, following thirty (30) days prior written notice from the State specifying a default or breach, Lessee fails to pay any money due hereunder or is in breach of any term or condition of this Lease, the State shall have the right, at its option and its sole discretion, to terminate this Lease and all rights inuring to Lessee herein by sending written notice of such termination to Lessee in accordance with the procedures set forth in ARTICLE XI of this Lease. Upon sending of such written notice, this Lease shall automatically terminate and all rights granted herein to Lessee shall

revert to the State. Such termination shall not prejudice the rights of the State to collect any money due or to seek recovery on any claim arising hereunder.

9.03 Unless the State has granted Lessee's request to waive the requirements of this paragraph under Section 9.04, Lessee shall, within one hundred twenty (120) days from the expiration or termination date, remove all personal property, structures, and improvements from the Premises and restore the Premises (and all other property affected by the Lessee's removal activities) to the same condition that existed prior to the placement, construction, or installation thereof on the Premises, provided that Lessee shall not be required to remove any structures or improvements from the Premises following the Lessee's full performance of its obligation to implement the Oyster Reef Restoration Project in accordance with the terms of the NRD Consent Decree. Lessee's activities shall be conducted in accordance with General Land Office guidelines in effect at the time of such activity, including, without limitation, specific techniques required for protection of natural resources and mitigation, or payment in lieu of mitigation, for damages resulting from removal activity. Upon such expiration or termination Lessee shall notify the State in writing within ten (10) days following completion of Lessee's removal and restoration activity. If Lessee fails to remove its personal property from the Leased Premises within the time specified in Section 9.02 above, or if Lessee fails to remove improvements placed or constructed on the Leased Premises by or behalf of Lessee pursuant to a notice by the State to do so pursuant to Section 9.02, the State may, at its sole option, remove and dispose of such property (with no obligation to sell or otherwise maintain such property in accordance with the Uniform Commercial Code), at Lessee's sole cost and expense, or the State may elect to own such property by filing a notice of such election pursuant to Section 51.302(g) of the Texas Natural Resources Code. If the State elects to remove Lessee's property and dispose of it pursuant to this section, then in such an event Lessee shall be obligated to reimburse the State for the reasonable costs of such removal and disposal within ten (10) days of State's demand for reimbursement. **THE TERMS OF THIS SECTION SHALL SURVIVE EXPIRATION OR EARLIER TERMINATION OF THIS LEASE.**

9.04 The Lessee shall have the right to request waiver of the removal requirement of Section 9.03 with respect to structures on and improvements to the Premises. Prior to termination of this Lease, the Lessee may submit a written request for waiver of the removal requirement to the State. Pursuant to such written request, the State shall have the right, at its option and its sole discretion, to waive the removal requirement by sending written notice of such waiver to Lessee in accordance with ARTICLE XI of this Lease. Upon sending by the State of such written notice of waiver to Lessee, the obligation of the Lessee to remove structures and improvements shall automatically terminate and all property rights in such structures and improvements shall revert to the State. Such waiver shall not prejudice the rights of the State to collect any money due or to seek recovery on any claim arising hereunder. The exercise of the State's right to waive the removal requirement of Section 9.03 shall not be unreasonably withheld.

9.05 In addition to the above, Lessee shall pay and discharge any and all taxes, general and special assessments, and other charges which during the term of this Lease may be levied on or assessed against the Premises or the Improvements constructed thereon, provided such taxes result from Lessee's use of this easement. Lessee shall pay such taxes, charges, and assessments not less than five (5) days prior to the date of delinquency thereof directly to the authority or official charged with the collection thereof. Lessee shall have the right in good faith at its sole cost and expense to contest any such taxes, charges, and assessments, and shall be obligated to pay the contested amount only if and when finally determined to be owed.

9.06 **LESSEE AGREES TO AND SHALL PROTECT AND HOLD THE STATE HARMLESS FROM LIABILITY FOR ANY AND ALL SUCH TAXES, CHARGES, AND ASSESSMENTS, TOGETHER WITH ANY PENALTIES AND INTEREST THEREON, AND FROM ANY SALE OR OTHER PROCEEDING TO ENFORCE PAYMENT THEREOF.**

ARTICLE X. HOLDOVER

10.01. If Lessee holds over and continues in possession of the Premises after expiration or earlier termination of this Lease, Lessee will be deemed to be occupying the Premises on the basis of a month-to-month tenancy subject to all of the terms and conditions of this Lease, except that as liquidated damages by reason of such holding over, the amounts payable by Lessee under this Lease shall be increased such that the Consideration payable under Section 4.01 of this

Lease and any other sums payable hereunder shall be two hundred percent (200%) of the amount payable to the State by Lessee for the applicable period immediately preceding the first day of the holdover period. Lessee acknowledges that in the event it holds over, the State's actual damages will be difficult, if not impossible, to ascertain, and the liquidated damages herein agreed to be paid are reasonable in amount and are payable in lieu of actual damages and are not a penalty. Lessee further acknowledges that acceptance of hold over Consideration does not imply State consent to hold over.

10.02. The tenancy from month-to-month described in Section 10.01 of this Lease may be terminated by either party upon thirty (30) days written notice to the other.

10.03. The Consideration due after notice of termination has been given is to be calculated according to Section 10.01 hereinabove on a pro rata basis. If upon notice of termination by the State, Lessee pays Consideration in excess of the amount due and payable and the State accepts such payment, the acceptance of such payment will not operate as a waiver by the State of the notice of termination unless such waiver is in writing and signed by the State. Any such excess amounts paid by Lessee and accepted by the State shall be promptly refunded by the State after deducting therefrom any amounts owed to the State.

ARTICLE XI. NOTICE AND REQUEST

11.01. Any notice or request which may or shall be given under the terms of this Lease shall be in writing and shall be either delivered by hand, by facsimile, or sent by United States first class mail, adequate postage prepaid, if for the State to Deputy Commissioner, Asset Inspection, addressed to his attention, 1700 North Congress Avenue, Austin, Texas 78701-1495, FAX: (512) 463-5304, and if for Lessee, to Alcoa, Inc., P.O. Box 101, Bldg. 505, Point Comfort, TX 77978-0101. Any party's address may be changed from time to time by such party by giving notice as provided above, except that the Premises may not be used by Lessee as the sole notice address. No change of address of either party shall be binding on the other party until notice of such change of address is given as herein provided.

11.02. For purposes of the calculation of various time periods referred to in this Lease, notice delivered by hand shall be deemed received when delivered to the place for giving notice to a party referred to above. Notice mailed in the manner provided above shall be deemed completed upon the earlier to occur of (i) actual receipt as indicated on the signed return receipt, or (ii) three (3) days after posting as herein provided.

ARTICLE XII. INFORMATIONAL REQUIREMENTS

12.01. A. Lessee shall provide written notice to the State of any change in Lessee's name, address, corporate structure, legal status or any other information relevant to this Lease.

B. Lessee shall provide to the State any other information reasonably requested by the State in writing within fifteen (15) days following such request or such other time period approved by the State (such approval not to be unreasonably withheld).

ARTICLE XIII. MISCELLANEOUS PROVISIONS

13.01. With respect to terminology in this Lease, each number (singular or plural) shall include all numbers, and each gender (male, female or neuter) shall include all genders. If any provision of this Lease shall ever be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provisions of the Lease, but such other provisions shall continue in full force and effect.

13.02. The titles of the Articles in this Lease shall have no effect and shall neither limit nor amplify the provisions of the Lease itself. This Lease shall be binding upon and shall accrue to the benefit of the State, its successors and assigns, Lessee, Lessee's successors and assigns (or heirs, executors, administrators and assigns, as the case may be); however, this clause does not constitute a consent by the State to any assignment by Lessee, but instead refers only to

those instances in which an assignment is hereafter made in strict compliance with Article VI above, or in the case of a deceased natural person Lessee, refers to the instances previously referred to in this sentence and also circumstances in which title to Lessee's interest under this Lease passes, after the demise of Lessee, pursuant to Lessee's will or the laws of intestate succession. The words "hereof," "herein," "hereunder," "hereinafter" and the like refer to this entire instrument, not just to the specific article, section or paragraph in which such words appear.

13.03. Neither acceptance of Consideration (or any portion thereof) or any other sums payable by Lessee hereunder (or any portion thereof) to the State nor failure by the State to complain of any action, non-action or default of Lessee shall constitute a waiver as to any breach of any covenant or condition of Lessee contained herein nor a waiver of any of the State's rights hereunder. Waiver by the State of any right for any default of Lessee shall not constitute a waiver of any right for either a prior or subsequent default of the same obligation or for any prior or subsequent default of any other obligation. No right or remedy of the State hereunder or covenant, duty or obligation of Lessee hereunder shall be deemed waived by the State unless such waiver be in writing, signed by a duly authorized representative of the State.

13.04. No provision of this Lease shall be construed in such a way as to constitute the State and Lessee joint ventures or co-partners or to make Lessee the agent of the State or make the State liable for the debts of Lessee.

13.05. In all instances where Lessee is required hereunder to pay any sum or do any act at a particular indicated time or within an indicated period, it is understood that time is of the essence.

13.06. Under no circumstances whatsoever shall the State ever be liable hereunder for consequential damages or special damages. The terms of this Lease shall only be binding on the State during the period of its ownership of the Premises, and in the event of the transfer of such ownership interest, the State shall thereupon be released and discharged from all covenants and obligations thereafter accruing, but such covenants and obligations shall be binding during the Lease term upon each new owner for the duration of such owner's ownership.

13.07. All monetary obligations of the State and Lessee (including, without limitation, any monetary obligation for damages for any breach of the respective covenants, duties or obligations of either party hereunder) are performable exclusively in Austin, Travis County, Texas.

13.08. The obligation of Lessee to pay all Consideration and other sums hereunder provided to be paid by Lessee and the obligation of Lessee to perform Lessee's other covenants and duties under this Lease constitute independent, unconditional obligations to be performed at all times provided for hereunder, save and except only when an abatement thereof or reduction therein is expressly provided for in this Lease and not otherwise. Lessee waives and relinquishes all rights which Lessee might have to claim any nature of lien against, or withhold or deduct from or offset against, any Consideration or other sums provided hereunder to be paid to the State by Lessee. Lessee waives and relinquishes any right to assert, either as a claim or as a defense, that the State is bound to perform or is liable for the nonperformance of any implied covenant or implied duty of the Grantor not expressly set forth in this Lease.

13.09. In the event any provision of this Lease is more restrictive than any administrative rule promulgated by the General Land Office and/or the School Land Board, this Lease shall control.

ARTICLE XIV. FILING

14.01. Lessee shall, at its sole cost and expense, record this Lease in the Calhoun County, Texas, Real Property Records and provide a file marked copy to the State within 60 days after this Lease is executed by all parties.

ARTICLE XV. ENTIRE AGREEMENT

15.01. This Lease, including any exhibits to the same, constitutes the entire agreement between the State and Lessee; no prior written or prior oral contemporaneous oral promises or representations shall be binding. The submission of this Lease for examination by Lessee or the State and/or execution thereof by the Lessee or the State does not constitute a reservation of or option for the Leased Premises and this Lease shall become effective only upon execution of all parties hereto and deliver of a fully executed counterpart thereof by the State to the Lessee. This Lease shall not be amended, changed or extended except by written instrument signed by both parties thereto.

09/29/04 WED 08:49 FAX 512 463 5304

GLO PERMITTING

0003

IN TESTIMONY WHEREOF, witness my hand and the Seal of Office.

LESSOR:
THE STATE OF TEXASLESSEE:
Alcoa, Inc.

By:

TERRY E. PATTERSON
Commissioner, General Land Office

By: _____

(Printed Name & Title)

Date:

10/13/04

Date:

8-26-04

APPROVED:

Contents:

Legal:

Deputy:

Executive:



ACKNOWLEDGMENT

STATE OF TEXAS

COUNTY OF CalhounThis instrument was acknowledged before me on the 26th day of August,
2004, by RONALD W. WEDDELL.Marilyn K. Valentine

Notary Public, State of Texas

My commission expires: 11-12-06

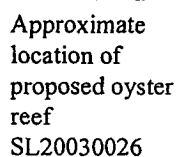
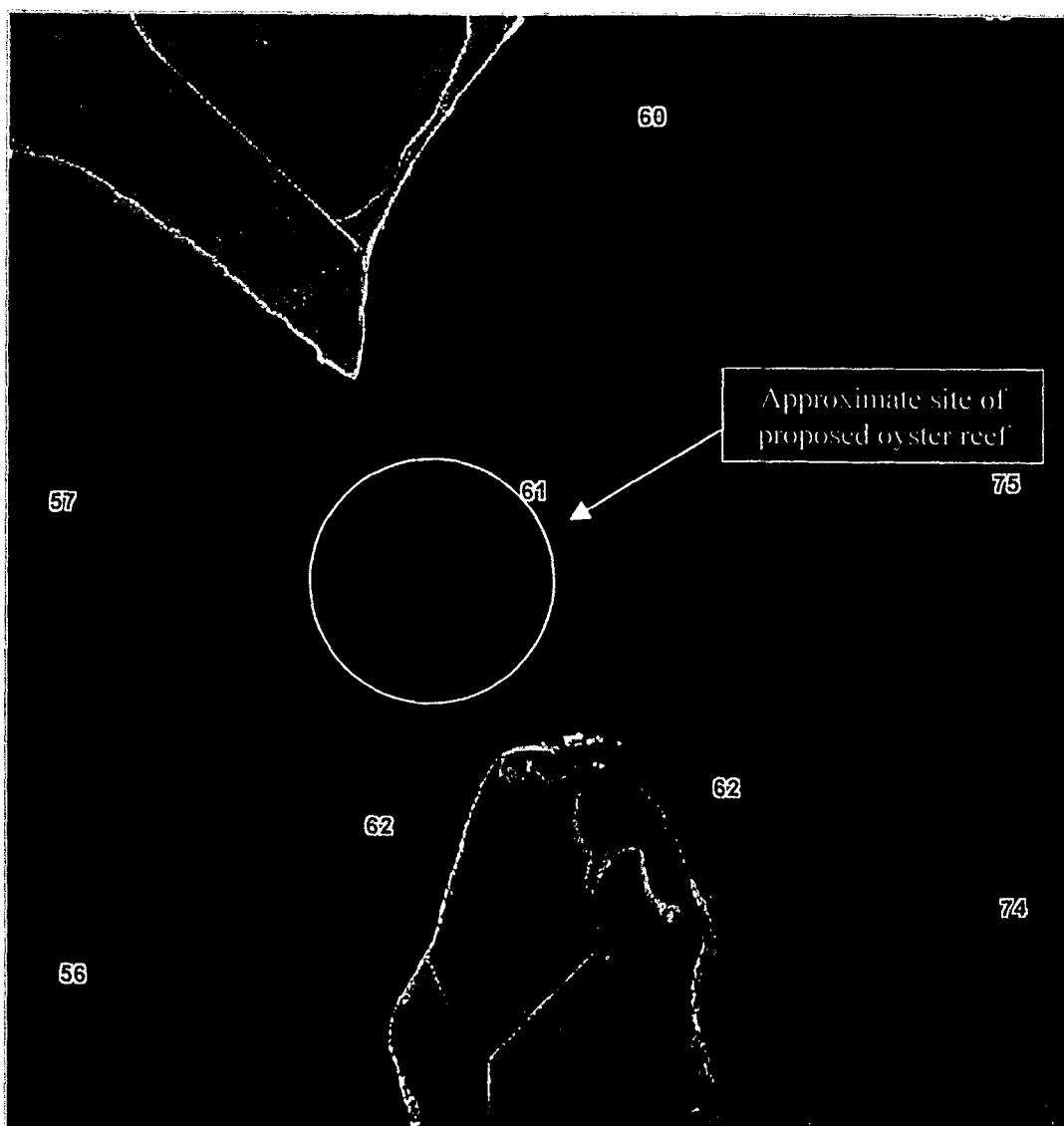


Exhibit A



Title: Alcoa, Inc. SL20030026	Date of Inspection: April 30, 2003
Company: General Land Office	Creator: Steve Buschang
Scale: 1: 3000	Exhibit B



1. VERTICAL DATUM= NGVD '29



Exhibit C

